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AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 1945*

House Bill No. 1817

by deleting all language after the enacting clause and by substituting instead the following:

Section 1. Chapter 3, Title 67, of the Tennessee Code Annotated, is amended by deleting Parts 1 through 11 in their entirety and by substituting instead the following new code sections:

CHAPTER 3

TAXES ON PETROLEUM PRODUCTS

AND ALTERNATIVE FUELS

PART 1 GENERAL PROVISIONS

T.C.A. § 67-3-101. Title. This chapter may be cited and referred to as the "Petroleum Products and Alternative Fuels Tax Law."

T.C.A. § 67-3-102. Purpose of chapter--construction.

It is the legislature's intent in enacting this chapter to:

- (a) establish an efficient and effective motor fuel tax collection and enforcement system adequate to substantially deter motor fuel tax evasion emanating from sources inside and outside this state;
- (b) amend prior Tennessee law to change the point of taxation of diesel fuel; and
- (c) maintain the previously existing system of taxation of petroleum products to the greatest extent possible within the framework of the modifications listed above.

T.C.A. § 67-3-103. Definitions.

As used in this chapter, unless the context otherwise requires:

- (1) "Act" or "this Act" means the enactment by the legislature of this state of this chapter.
- (2) "Agricultural purposes" means operating tractors or other farm equipment used exclusively, whether for hire or not, in plowing, planting, harvesting, raising or processing of farm products at a farm, nursery or greenhouse; or operating farm irrigation systems; when such vehicles or equipment are not operated upon the public highways of this state.
- (3) "Alternative fuel" means a liquefied petroleum gas or compressed natural gas product used in an internal combustion engine or motor to propel any form of motor vehicle, machine, or mechanical contrivance. The term includes all forms of fuel commonly known as butane, propane, or compressed natural gas.
- (4) "Blend stock" means any petroleum product component of gasoline, such as naphtha, reformate, or toluene, that can be blended for use in a motor fuel. However, the term does not include

51931726

51931726

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AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

any substance that will be ultimately used for consumer non-motor fuel use and is sold or removed in drum quantities - not more than fifty-five (55) gallons - at the time of the removal or sale.

(5) "Blended fuel" means a mixture composed of gasoline or diesel fuel and another liquid, other than a minimal amount of a product such as carburetor detergent or oxidation inhibitor, that can be used as a fuel in a highway vehicle.

(6) "Blender" means any person that produces blended motor fuel outside the bulk transfer/terminal system.

(7) "Blending" means the mixing of one (1) or more petroleum products, with or without another product, regardless of the original character of the product blended, if the product obtained by the blending is capable of use or otherwise sold for use in the generation of power to propel a motor vehicle, an airplane, a motorboat, or other mechanical contrivance. The term does not include blending that occurs in the process of refining by the original refiner of crude petroleum or the blending of products known as lubricating oil and greases.

(8) "Bonded importer" means a person with a valid bonded importer's license under § 67-3-606.

(9) "Bulk end user" means a person who receives into his own storage facilities, for his own consumption, transport lots of taxable motor fuel.

(10) "Bulk export" means the movement of petroleum products from a point in Tennessee to another state by means of transport truck, pipeline, marine vessel or rail, including any quantity of petroleum product placed by the manufacturer into the vehicle fuel supply tank of a newly manufactured motor vehicle.

(11) "Bulk plant" means a motor fuel storage and distribution facility that is not a terminal and from which motor fuel may be removed at a rack.

(12) "Bulk transfer" means any transfer of a petroleum product within the bulk transfer/terminal system from one location to another by pipeline or marine delivery.

(13) "Bulk transfer/terminal system" means the motor fuel distribution system consisting of refineries, pipelines, vessels, and terminals. Thus, gasoline in a refinery, pipeline, vessel, or terminal is in the bulk transfer/terminal system. Taxable motor fuel in the fuel supply tank of any engine, or in any tank car, rail car, trailer, truck, or other equipment suitable for ground transportation is not in the bulk transfer/terminal system.

51931726

51931726

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00460995

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

(14) "Commissioner" means the commissioner of revenue or the commissioner's designated subordinate official.

(15) "Computer-type pump" means a pump used to dispense fuel, which has meters for registering the total sales price and gallons sold, and displays the price per gallon on the dispenser.

(16) "Customer-controlled pump" means a pump used for dispensing motor fuel directly to a customer who can access the pump by way of a personal key, an identification number, or a customer card which is assigned to the customer by a licensed wholesaler.

(17) "Dead storage" means the amount of taxable motor fuel that will not be pumped out of a storage tank because the motor fuel is below the mouth of the draw pipe. For this purpose, a vendor may assume that the amount of motor fuel in dead storage is two hundred (200) gallons for a tank with a capacity of less than ten thousand (10,000) gallons, and four hundred (400) gallons for a tank with a capacity of ten thousand (10,000) gallons or more.

(18) "Department" means the Tennessee Department of Revenue.

(19) "Destination state" means the state, territory, or foreign country to which petroleum products are directed for resale or use.

(20) "Diesel fuel" means any liquid that is commonly or commercially known or sold as a fuel that is suitable for use in a diesel-powered highway vehicle. A liquid meets this requirement if, without further processing or blending, the liquid has practical and commercial fitness for use in the propulsion engine of a diesel-powered highway vehicle. Diesel fuel does not include jet fuel or kerosene unless sold for use in a diesel-powered highway vehicle or used in such vehicles; in which case the fuel shall be deemed diesel fuel for taxation purposes. With regard to jet fuel, it is further provided that the buyer must be registered to purchase jet fuel subject to federal taxes applicable to jet fuel, and the vendor must obtain certification of such fact satisfactory to the department prior to making the sale.

(21) "Diesel-powered highway vehicle" means a motor vehicle, propelled by a diesel-powered engine, that is operated, or intended to be operated, on a highway.

(22) "Distributor report" means the report required under section 67-3-701.

(23) "Diverted shipment" means any shipment of a petroleum product where the movement of that product by a transporter is changed from the original point of destination to another point of destination.

51931726

51931726

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AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

(24) "Dyed diesel fuel" means diesel fuel dyed under United States Environmental Protection Agency rules for high sulfur diesel fuel, or dyed under Internal Revenue Service rules for low sulphur fuel, or dyed pursuant to any other requirements subsequently set by the United States Environmental Protection Agency or Internal Revenue Service, including any invisible marker requirements.

(25) "Ethanol" means fuel grade ethanol.

(26) "Export" means to obtain petroleum products in this state for sale, use, or distribution in another state. In applying this definition, the delivery of petroleum products outside Tennessee by or for the vendor constitutes an export by the vendor, and the delivery of petroleum products outside Tennessee by or for the purchaser constitutes an export by the purchaser.

(27) "Exporter" means any person, other than a supplier, who purchases or otherwise holds title to taxable petroleum products in this state for the purpose of transporting or delivering the products to another state or country.

(28) "Farm products" means flowers and plants, including cut flowers, flowering plants, potted plants, vegetables and vegetable plants, trees, shrubs, vines, ornamentals, sod, and mushrooms. It also means livestock and poultry raised for food, including dairy products.

(29) "Fuel alcohol" means any alcohol used or intended for use as fuel in a combustion engine or heating oil system.

(30) "Fuel grade ethanol" means a product that meets the American Society for Testing and Materials (ASTM) standard in effect on January 1, 1995, and any successor rule, as the D-4806 specification for denatured fuel grade ethanol, for blending with gasoline for use as automatic spark-ignition engine fuels.

(31) "Fuel transportation vehicle" means a vehicle designed for highway use which is also designed or used to transport motor fuels, including transport trucks and tank wagons.

(32) "Gallon" or "net gallon" means the amount of petroleum product, corrected to a temperature of sixty (60) degrees Fahrenheit and a pressure of fourteen and seven tenths (14.7) pounds per square inch, necessary to completely fill a standard United States gallon liquid measure.

(33) "Gasohol" means a blended fuel composed of gasoline and ethanol.

(34) "Gasoline" means all products commonly or commercially known or sold as gasoline that are suitable for use as a motor fuel; but not including any product that is sold as a product other than gasoline and has an American Society for Testing Materials (ASTM) octane number of less than 75 as determined

51931726

51931726

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AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

by the "motor method"; and not including aviation gasoline, provided that the buyer is registered to purchase aviation gasoline free of tax, and the vendor obtains certification of such fact satisfactory to the Department prior to making the sale.

(35) "Governmental agency" means a department of a local, state or federal government, where such department is organized by and accountable to the authority of the executive, legislative, or judicial branch of that government; but does not include a private organization, association, or contractor, whether for-profit or not, unless specifically identified in this chapter. For the purpose of this chapter, governmental agency shall include a rescue squad chartered by the state as a non-profit corporation or association and which is a member of the Tennessee Association of Rescue Squads, and a volunteer fire department chartered by the state as a non-profit corporation or association.

(36) "Gross gallons" means the total measured product, exclusive of any temperature or pressure adjustments, considerations or deductions.

(37) "Heating oil" means a motor fuel that is burned in a boiler, furnace, or stove for heating or industrial processing purposes.

(38) "Highway vehicle" means a self-propelled vehicle that is designed for use on a highway.

(39) "Import" means to bring petroleum products into this state by any means of conveyance other than in the fuel supply tank of a motor vehicle. In applying this definition, the delivery of petroleum products into this state from outside Tennessee by or for the vendor constitutes an import by the vendor, and the delivery of petroleum products into this state from outside Tennessee by or for the purchaser constitutes an import by the purchaser.

(40) "In this state" means the area inside the boundaries of Tennessee, but does not include the midstream of waterways which border the state.

(41) "Invoiced gallons" means the gallons actually billed on an invoice from a vendor.

(42) "K-1 kerosene" means burner fuel designed for un-vented space heaters which meets ASTM standard D-3699, in effect on January 1, 1995, and any successor rule, as the specification for #1-K kerosene.

(43) "Kerosene" has the same meaning as defined by the American Society for Testing and Materials standards for kerosene.

(44) "Liquid" means any substance that is liquid at temperatures in excess of sixty (60) degrees Fahrenheit and at a pressure of fourteen and seven-tenths (14.7) pounds per square inch absolute.

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51931726

004609

00460995

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 1945*

House Bill No. 1817

(45) "Local transit company" means a person who is a scheduled, common carrier, public passenger, land transportation service; serving regular routes within a municipality and the territory adjacent thereto, or within a metropolitan government created under title 7, chapters 1-3; and who generates at least sixty percent (60%) of the total passenger fare from such routes; provided further that the operation is supervised, regulated, and controlled as a street railway company, under § 65-16-101, and all legislative and statutory provisions applicable thereto.

(46) "Local transit service" means service furnished by a local transit company as defined in this part.

(47) "Motor fuel" means gasoline, diesel fuel and blended fuel.

(48) "Motor fuel transporter" means a person who transports motor fuel by transport truck, railroad tank car, marine vessel or pipeline.

(49) "Motor vehicle" means a vehicle that is propelled by an internal combustion engine or motor and is designed to permit the vehicle's use on highways. The term does not include:

(a) farm machinery, including machinery designed for off-road use but capable of movement on roads at low speeds; or

(b) a vehicle operated on rails; or

(c) machinery designed principally for off-road use, unless such machinery is licensed to operate on Tennessee highways.

(50) "Permissive supplier" means any person who is not subject to the general taxing jurisdiction of this state, but that (1) is a position holder in a federally qualified terminal located outside this state, and (2) is registered under section 4101 of the Internal Revenue Code for transactions in taxable motor fuels in the bulk transfer/terminal distribution system, and (3) who acquires product in such out-of-state terminals from position holders in transactions that otherwise qualify as two-party exchanges as defined in this chapter.

(51) "Person" means a natural person, partnership, firm, association, corporation, limited liability company, court appointed representative, state, political subdivision or any other entity, group, or syndicate.

(52) "Petroleum products" means all benzol, gasoline, burning oil, distillate, fuel oil, gas oil, kerosene, naphtha, or any other volatile substance, excluding propane, reflecting a gravity of sixteen degrees (16°) or above on the American Petroleum Institute (API) scale; with the exception of those

51931726

51931726

004609

00460995

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

substances with a kinematic viscosity greater than seventy (70) centistokes at one hundred twenty-two (122) degrees Fahrenheit and a flash point greater than one hundred fifty (150) degrees Fahrenheit; produced from petroleum, natural gas, oil shale or coal, by whatever trade name known, or substitutes therefor, including fuel alcohol, sold or used or stored in this state, separately or in combination, for any purpose whatever, by any user or storer, whether or not manufactured in this state.

(53) "Position holder" means the person who holds the inventory position in petroleum products in a terminal, as reflected on the records of the terminal operator. A person holds the inventory position in petroleum products when that person has a contract with the operator for the use of storage facilities and terminaling services for petroleum products at the terminal. The term includes a terminal operator who owns petroleum products in the terminal.

(54) "Public highway" means the entire width between boundary lines of each public-maintained way in this state, including streets and alleys in cities and towns, when any part of the way is open to the public use for vehicle travel.

(55) "Qualified terminal" means a qualified terminal as defined under Internal Revenue Code, regulation and practices, and which has been assigned a terminal control number (TCN) by the Internal Revenue Service.

(56) "Rack" means a mechanism for delivering motor fuel from a refinery, terminal, or bulk plant into a railroad tank car, a transport truck or another means of bulk transfer outside of the bulk transfer/terminal system.

(57) "Refiner" means a person that owns, operates, or otherwise controls a refinery within the United States.

(58) "Refinery" means a facility used to produce motor fuel from crude oil, unfinished oils, natural gas liquids, or other hydrocarbons, and from which motor fuel may be removed by pipeline, by marine vessel, or at a rack; provided further, refinery shall also mean a facility used to produce fuel alcohol.

(59) "Removal" means any physical transfer other than by evaporation, loss, or destruction, of petroleum products from a terminal, manufacturing plant, customs custody, pipeline, marine vessel (e.g., barge or tanker), refinery or any receptacle that stores petroleum products.

(60) "Retail station" means any service station, garage, truckstop or other outlet dispensing motor fuel from a container equipped with a computer-type pump that measures fuel passing through it.

51931726

51931726

004609

00460995

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 1945*

House Bill No. 1817

(61) "Retailer" means a person who engages in the business of selling or distributing petroleum products to the end user within this state through a retail station.

(62) "State" means the State of Tennessee.

(63) "Supplier" means a person that meets all the following conditions: (a) is subject to the general taxing jurisdiction of this state, (b) is registered under section 4101 of the Internal Revenue Code for transactions in taxable motor fuels in the bulk transfer/terminal system, and (c) is one of the following: (1) the "position holder" in a terminal or refinery in this state, or is one who receives fuel or fuel alcohol from a position holder within a terminal or refinery in this state, or (2) imports taxable petroleum products into this state from a foreign country, or (3) acquires taxable petroleum products from a terminal or refinery outside this state for import into this state on his account, or (4) produces fuel alcohol or alcohol derivative substances in this state, or (5) the receiving supplier on a two-party exchange. A terminal operator shall not be considered a supplier merely because the terminal operator handles taxable petroleum products consigned to it within a terminal. When the term "supplier" is used in this chapter, other than in this section, it shall be deemed to also refer to the term "permissive supplier" unless provided otherwise.

(64) "Tank wagon" means a straight truck having multiple compartments designed or used to carry petroleum products.

(65) "Taxable motor fuel" means gasoline, diesel fuel, kerosene, and blends thereof, and any other substance blended with any of the foregoing.

(66) "Terminal" means a storage and distribution facility for taxable motor fuel, supplied by pipeline or marine vessel, which is registered as a qualified terminal by the Internal Revenue Service.

(67) "Terminal bulk transfer" means a transfer of petroleum products in any of the following instances:

- (a) Marine barge movements of fuel from a refinery or terminal to a refinery or terminal;
- (b) Pipeline movements of fuel from a refinery or terminal to a refinery or terminal;
- (c) Rail movements of fuel from a refinery or terminal to a refinery or terminal;
- (d) Book transfers of product within a terminal between suppliers prior to completion of removal across the rack; or
- (e) Two-party exchanges between licensed suppliers within a terminal.

51931726

51931726

004609

00460995

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

(68) "Terminal operator" means a person that (1) owns, operates, or otherwise controls a terminal, and (2) does not use a substantial portion of the taxable motor fuel that is transferred through or stored in the terminal for its own use (i.e., for its own consumption or in the manufacture of products other than motor fuel). A terminal operator may own the taxable motor fuel that is transferred through or stored in the terminal.

(69) "Transmix" means the buffer or interface between two (2) different products in a pipeline shipment, or a mix of two (2) different products within a refinery or terminal that results in an off-grade mixture.

(70) "Transport truck" means a semi-trailer combination rig or tank wagon designed or used for the purpose of transporting petroleum products over the highways.

(71) "Transporter" means any operator of a pipeline, barge, railroad or transport truck engaged in the business of transporting petroleum products.

(72) "Two-party exchange" means a transaction in which product is transferred from one licensed supplier or licensed permissive supplier to another licensed supplier or licensed permissive supplier: (1) which transaction includes a transfer from the person that holds the inventory position for taxable motor fuel in the terminal as reflected on the records of the terminal operator, and (2) the exchange transaction is completed prior to removal of the product from the terminal by the receiving exchange partner. Provided, however, that in any event the terminal operator, in its books and records, must treat the receiving exchange party as the supplier who removes the product across a terminal rack for purposes of reporting such events to this state.

(73) "Undyed diesel fuel" means diesel fuel not dyed under United States Environmental Protection Agency rules for high sulfur diesel fuel nor dyed under Internal Revenue Service rules for low sulphur fuel nor pursuant to any other requirements subsequently set by the United States Environmental Protection Agency or Internal Revenue Service.

(74) "Vehicle fuel supply tank" means any receptacle on a motor vehicle designed to supply fuel for the propulsion of the motor vehicle or from which fuel is supplied for the propulsion of the motor vehicle.

(75) "Vessel" means a barge or other marine conveyance used to transport petroleum products in bulk.

51931726

51931726

004609

00460995

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 1945*

House Bill No. 1817

(76) "Wholesaler" means a person who acquires petroleum products from a supplier, importer or from another wholesaler, for subsequent sale and distribution at wholesale by tank cars, transport trucks or vessels.

PART 2 IMPOSITION OF TAXES AND FEES

T.C.A. § 67-3-201. Gasoline tax. (a) Subject to exemptions provided in part 4 of this chapter, a privilege tax of twenty cents (20¢) per gallon is imposed upon all gasoline, fuel alcohol and substitutes therefor, imported into the state; the tax being levied when the product first comes to rest in the state. The tax shall also be imposed on all gasoline or substitutes therefor refined, manufactured, produced, or compounded in this state, and thereafter sold, stored or distributed in this state. The tax imposed by this section shall be collected and paid at those times, in the manner, and by those persons specified in this chapter.

(b) No fuel shall be included in the measure of the tax liability under this section unless it shall have previously come to rest within the meaning of the commerce clause of the Constitution of the United States.

T.C.A. § 67-3-202. Diesel tax. (a) Subject to exemptions provided in part 4 of this chapter, a use tax of seventeen cents (17¢) per gallon is imposed upon all diesel fuel and all fuel other than gasoline that is suitable for use in a diesel-powered vehicle or which is used or consumed in this state to produce power for propelling motor vehicles; it being the purpose and intent of this section that the taxes being levied on taxable motor fuels under the provisions of this chapter are in fact a levy and assessment on the consumer, and the levy and assessment on other persons as specified in this chapter are as agents of the State for the collection of such tax.

(b) The tax imposed by this section shall be collected and paid at those times, in the manner, and by those persons specified in this chapter.

(c) With respect to purchases of diesel fuel which is indelibly dyed in accordance with Internal Revenue Service regulations and is legal for exempt use only, such fuel shall not be considered subject to the diesel tax imposed under this section.

T.C.A. § 67-3-203. Special privilege tax. Subject to exemptions provided in part 4 of this chapter, in addition to the taxes imposed on motor fuels in § 67-3-201 and § 67-3-202, a special privilege tax of one cent (1¢) per gallon is imposed on all petroleum products. The tax imposed by this section shall be collected and paid at those times, in the manner, and by those persons specified in this chapter.

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51931726

004609

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FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 1945*

House Bill No. 1817

T.C.A. § 67-3-204. Environmental assurance fee. Subject to exemptions provided in part 4 of this chapter, in addition to the taxes imposed on petroleum products in § 67-3-201, § 67-3-202 and § 67-3-203, an environmental assurance fee as provided in § 68-215-110 is imposed on all petroleum products. The fee imposed by this section shall be collected and paid at those times, in the manner, and by those persons specified in this chapter.

T.C.A. § 67-3-205. Export tax.

An export tax of one-twentieth of one cent (1/20th of 1 cent) per gallon is levied upon all of the petroleum products, subject to the special privilege tax provided at § 67-3-203, which are stored in this state, or have come to rest after shipment in interstate commerce and are stored in this state, and are subsequently exported to points outside of this state. If with respect to these petroleum products the special privilege tax has already been paid, then nineteen-twentieths (19/20ths) of the special privilege tax may be credited on a monthly return, or in the alternative, refunded.

PART 3 MEASUREMENT OF TAX

T.C.A. § 67-3-301. Measurement of gasoline tax. The tax imposed by § 67-3-201 on taxable gallons imported into this state by a licensed importer shall be measured and levied at the time the product first comes to rest in this state. On product refined, produced, or compounded in this state, the tax shall be measured and levied on any finished product when first placed into storage for sale or use. For products removed from a qualified terminal or refinery outside this state, destined for this state under a tax pre-collection election provided in § 67-3-503, the tax shall be measured and levied at the time the product is removed across the terminal rack of such out-of-state facility, as if the product were imported and came to rest in Tennessee.

T.C.A. § 67-3-302. Measurement of diesel tax. (a) The tax imposed by § 67-3-202 shall be measured by taxable gallons removed, other than through a bulk transfer, by a licensed supplier:

- (1) from the bulk transfer/terminal system or from a qualified terminal or refinery within this state;
- (2) from the bulk transfer/terminal system or from a qualified terminal or refinery outside this state for delivery to a location in this state as represented on the shipping papers; provided that the supplier imports such taxable motor fuel for his own account, or such supplier has made a tax pre-collection election under § 67-3-503;
- (3) upon sale in a qualified terminal or refinery in this state to an unlicensed supplier; or

51931726

51931726

004609

00460995

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 1945*

House Bill No. 1817

(4) in other cases in the same manner as the tax imposed by section 4081 of the Internal Revenue Code of 1986 or the Code of Federal Regulations as they exist as of January 1, 1995, or as subsequently modified.

(b) With respect to the operator of a terminal in this state, the tax imposed by § 67-3-202 shall be measured and levied annually on taxable motor fuel by the amount by which net gallons lost or unaccounted for, including transmix, within the terminal exceed the sum of net gallon gains, plus one-half of one percent (0.5%) times the number of all net gallons removed from such terminal across the rack or in bulk.

T.C.A 67-3-303. Measurement of special privilege tax and environmental assurance fee. (a) The tax imposed by § 67-3-203 and the fee imposed by § 67-3-204 on petroleum products shall be measured by gallons of petroleum products removed, other than through a bulk transfer, by a licensed supplier:

(1) from the bulk transfer/terminal system or from a qualified terminal or refinery within this state;

(2) from the bulk transfer/terminal system or from a qualified terminal or refinery outside this state for delivery to a location in this state as represented on the shipping papers; provided that the supplier imports such taxable petroleum products for his own account, or such supplier has made a tax pre-collection election under § 67-3-503;

(3) upon sale in qualified terminal or refinery in this state to an unlicensed supplier; or

(4) in other cases in the same manner as the tax imposed by section 4081 of the Internal Revenue Code of 1986 or the Code of Federal Regulations as they exist as of January 1, 1995, or as subsequently modified.

(b) Anything to the contrary notwithstanding, the Special Privilege Tax and the Environmental Assurance Fee on gasoline shall be measured and levied at the time the product first comes to rest in this state.

(c) With respect to the operator of a terminal in this state, the tax imposed by § 67-3-203 and the fee imposed by § 67-3-204, shall be measured and levied annually on petroleum products other than gasoline by the amount by which net gallons lost or unaccounted for, including transmix, within the terminal exceed the sum of net gallon gains, plus one-half of one percent (0.5%) times the number of all net gallons removed from such terminal across the rack or in bulk.

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51931726

004609

00460995

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

T.C.A. § 67-3-304. Measurement of floorstock tax. (a) The taxes and fees imposed by §§ 67-3-202, 67-3-203 and 67-3-204, on the date of an increase in the tax rate, shall be applicable to previously taxed petroleum products in inventory held for sale by a wholesaler.

(b) The tax imposed by § 67-3-201, on the date of an increase in the tax rate, shall be applicable to previously taxed gasoline in inventory held by a supplier, bonded importer, importer or wholesaler, except inventory held at retail.

(c) The tax imposed by § 67-3-202 shall be applicable to all non-exempt inventory held by any person outside of the bulk transfer/terminal system in this state to the extent such inventory has not previously been subject to the tax imposed by this state under the predecessor motor fuel tax statute. Provided however, no tax shall be payable with respect to dyed diesel fuel or fuel held by an exempt user, including governmental agencies described under § 67-3-401.

(d) Persons in possession of taxable petroleum products subject to this section shall take an inventory at the start of business on the date which the increased tax rate becomes effective and on the effective date of this Act, to determine the gallons in storage for purposes of determining the taxes and/or fees. Provided however, in determining the amount of taxable petroleum products taxes and fees due under this section:

- (1) the person may exclude the amount of taxable petroleum products in dead storage;
- (2) for the inventory taken on the effective date of this Act, the person may exclude gallons on which taxes and fees at the full rate have previously been paid;
- (3) the person may exclude gallons of dyed diesel fuel from the tax imposed by section 67-3-202 only; and
- (4) the person shall report the gallons listed in this section on forms provided by the commissioner.

(e) Where gallons in taxable inventory have not previously been subject to the predecessor motor fuel tax statute, the amount of the inventory tax is equal to the tax rate times the gallons in storage, as determined under subsection (c). In the case of an increase in the tax rate, the inventory tax is equal to the new tax rate minus the previous tax rate times the number of gallons previously taxed.

(f) Payment of this floorstock tax shall be made in accordance with § 67-3-511.

PART 4 EXEMPTIONS AND REFUNDS

T.C.A. § 67-3-401. Governmental agency exemption.

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AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

(a) There shall be exempted from the taxes and fees imposed in part 2 any governmental agency which holds an active exemption permit issued by the department.

(b) Each governmental agency making purchases of petroleum products shall, prior to the purchase of such products, acquire a valid exemption permit issued by the commissioner. The exemption permit shall be numbered and shall entitle such governmental agency to purchase petroleum products tax exempt for a period of three (3) years from the date of issuance. The permittee shall make application for renewal prior to the expiration of the permit.

(c) If any governmental agency, to which an exemption permit has been issued, loses its status as a governmental agency during the effective period of any such permit, the permit shall be void and shall be immediately surrendered to the department.

(d) In order to be entitled to the exemption, the governmental agency shall receive, store, handle and use the petroleum products strictly in the following manner:

(1) Purchase only from a licensed importer, supplier or wholesaler, and in lots of at least five hundred (500) gallons except as provided in subsections (i) and (j). Delivery of such fuel shall be completed within seventy-two (72) hours following commencement of the delivery. The five hundred (500) gallon requirement may be met by the combined shipment of any petroleum products during the seventy-two (72) hour period.

(2) Store in a storage facility either owned or leased by such agency. In the event the facility is leased, it shall be separate and apart from the commercial storage facilities of any motor fuel vendor, and the storage facility must be kept under the exclusive control of the governmental agency at all times. In order for the leased facility to comply with the provisions of this subsection, a copy of the lease must be filed with and approved by the commissioner;

(3) Remove from the storage facility in equipment either owned or leased by the governmental agency.

(4) Use exclusively for governmental purposes, in equipment either owned or leased by the governmental agency and operated by governmental employees.

(e) It is unlawful for any person to use petroleum products sold to a governmental agency for any purpose other than governmental.

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FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 1945*

House Bill No. 1817

(f) For the purposes of this part only, a motor vehicle used exclusively in a driver education program approved by the state board of education shall be considered to have met the requirements of (d)(4).

(g) For the purposes of this part only:

(1) a motor vehicle used exclusively for the purpose of providing mass transportation services; paratransit service to or for the benefit of elderly and handicapped persons; or other specialized mass transportation services of a public transportation system or transit authority organized and existing under and by virtue of title 7, chapter 56, and operated by non-governmental employees; shall be considered to have met the requirements of (d)(4); and

(2) petroleum products stored by the governmental agency in a storage facility or tank(s) leased by the governmental agency on the premises of a person providing the transportation services referred to in subsection (g)(1), pursuant to contract with such public transportation system or transit authority, shall be considered to have met the requirements of (d)(2); provided that such leased storage facility or tank(s) shall be separate and apart from the other commercial storage facilities and tank(s) on the premises, and the leased storage facility or tank(s) must be kept and maintained for the exclusive use and storage of petroleum products stored by the governmental agency for operation of such mass transportation services, paratransit service to or for the benefit of elderly and handicapped persons, or other specialized mass transportation services at all times, and for no other purpose.

(h) An independent contractor operating a local transit company and providing local transit services is exempt from the petroleum products taxes and fees imposed in part 2, subject to the same restrictions imposed on governmental agencies under this part.

(i) In lieu of the provisions set out in subsection (d)(2), petroleum products may be delivered to a governmental agency through a customer-controlled pump. A licensed wholesaler may locate such pump(s) at a location other than the wholesaler's primary storage location. A customer-controlled pump shall not be located on any retail station island. Such pump(s) must be connected to a storage tank whose inventory is owned by the licensed wholesaler. Any licensed wholesaler found violating any statute or any rule promulgated by the commissioner relating to a customer-controlled pump shall lose the right to sell from a customer-controlled pump for a period of not less than two (2) years, and shall be subject to all other penalties set forth in the law. A person associated with a retail station shall neither take part in the dispensing or sale of petroleum products from such pumps, nor shall such person possess any key

51931726

004609

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

that will activate any meter that may be used for dispensing such products. A customer-controlled pump shall have the ability to identify each customer separately and only that customer shall be allowed to purchase petroleum products through that identity at the pump. One (1) invoice exclusively for sales from a customer-controlled pump shall be issued on the last day of any month in which a tax refund on sales to governmental agencies is claimed. Such invoice shall clearly identify itself as an invoice solely for sales through a customer-controlled pump. Sales through a customer-controlled pump are not subject to the minimum purchase requirements of this part.

(j) Notwithstanding any other provision of this part to the contrary, a governmental agency may purchase petroleum products from retail stations free of the taxes imposed in § 67-3-201, § 67-3-202 and § 67-3-203, and free of the fee imposed in § 67-3-204. Such purchases may only be made through a fleet credit card or an oil company credit card which has been issued by the oil company to a governmental agency which holds an exemption permit issued by the commissioner pursuant to this part.

(k) Any governmental agency using, storing, distributing or selling petroleum products in any manner except strictly in accordance with the provisions of this part:

(1) shall be liable for the state petroleum products taxes and fees imposed in part 2. In the event of such liability, the taxes and fees shall be collected in the manner otherwise provided by law; and further,

(2) shall be subject to revocation of its governmental agency exemption permit.

T.C.A. § 67-3-402. Consumer imports exemption. There shall be exempt from the taxes and fees imposed in part 2, taxable motor fuel acquired by an end user out of state, carried into this state in a vehicle fuel supply tank, and consumed from the same tank in which it was imported.

T.C.A. § 67-3-403. Industrial chemicals and solvents exemption.
Industrial chemicals or solvents classified as volatile substances shall not be subject to the taxes or fees imposed in part 2 when these industrial chemicals or solvents are neither intended for use nor used as fuels.

T.C.A. § 67-3-404. Export exemption. There shall be exempt from nineteen-twentieths (19/20ths) of the special privilege tax imposed by § 67-3-203, and from all other taxes and fees imposed in part 2, the following:

(i) all bulk exports of petroleum products, and

51931726

51931726

004609

00460995

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

(ii) all exports of petroleum products within the vehicle fuel supply tanks of locomotives and airplanes.

T.C.A. § 67-3-405. Suppliers export exemption. There shall be exempt from the taxes and fees imposed in part 2, with the exception of the export tax imposed by section 67-3-205, taxable petroleum products:

(i) exported by a supplier, or

(ii) sold by a supplier to a person, who is licensed in this state, for immediate export to a state for which the destination state motor fuel tax has been paid to the supplier.

Provided however, that the supplier shall be licensed to remit tax to such destination state, and that the supplier shall maintain for inspection by the department satisfactory proof of export in the form of a terminal-issued, destination state shipping paper.

T.C.A. § 67-3-406. Refund on exports by licensed exporter. A licensed exporter shall be entitled to a refund of the taxes and fees previously paid on taxable petroleum products pursuant to part 2, with the exception of the export tax imposed by section 67-3-205, in the following instances:

(i) where petroleum products were placed into storage in this state and were subsequently exported by transport truck or tank wagon by or on behalf of such licensed exporter, or

(ii) where petroleum products were exported by transport truck or tank wagon by or on behalf of such exporter in a diversion across state boundaries properly reported in conformity with § 67-3-806.

T.C.A. § 67-3-407. Refund on exports by unlicensed exporter. An unlicensed exporter shall be entitled to a refund of the taxes and fees previously paid pursuant to part 2, with the exception of the export tax imposed by section 67-3-205, on taxable petroleum products which were acquired by the unlicensed exporter and subsequently exported by transport truck or tank wagon by or on behalf of such exporter.

T.C.A. § 67-3-408. Kerosene exemption. There shall be exempt from the tax imposed in § 67-3-202 all kerosene sold or used in the state for purposes other than in any motor vehicle or equipment operated on the public highways of this state. This includes K-1 kerosene sold at retail through dispensers which have been designed and constructed to prevent delivery directly from the dispenser into a vehicle fuel supply tank, and K-1 kerosene sold at retail through non-barricaded dispensers in quantities of not more than twenty-one (21) gallons for use other than for highway purposes, under such

51931726

51931726

004609

00460995

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 1945*

House Bill No. 1817

rules as the department shall reasonably require. Quantities sold at retail stations, other than stated above, are subject to the diesel tax imposed in § 67-3-202.

T.C.A. § 67-3-409. Aviation fuel exemption. There shall be exempt from the taxes imposed in § 67-3-201 and § 67-3-202 taxable motor fuel sold for use in aircraft, provided that the buyer must be registered to purchase jet fuel subject to federal taxes applicable to jet fuel, and the vendor must obtain certification of such fact satisfactory to the department prior to making the sale.

T.C.A. § 67-3-410. Refineries. (a) None of the laws relating to the inspection of petroleum products as set forth in § 60-3-103 through § 60-3-114 or the taxes and fees imposed by this chapter upon petroleum products, shall be applicable or collectible in the following cases:

(1) Upon any of the products while being transported from, inside or outside the state to a petroleum refinery inside the state, for the purpose of there being refined, further refined or processed;

(2) Upon any of the products while being refined, further refined, processed or stored at a petroleum refinery inside this state. Refinery exemptions are applicable to all petroleum activities, exchanges and transactions that are customarily performed by or engaged in by a refinery, but specifically excluded are exemptions applicable to the storage of petroleum or petroleum products for others, whether by lease or otherwise;

(3) Upon any of the products while being transported from a refinery inside this state to another petroleum refinery inside this state; and

(4) Upon any of the products while being transported from a petroleum refinery inside this state to a place outside this state, excluding commercial marine vessels even though delivery is made in midstream of waterways constituting geographical boundaries of this state. For any product transported from refinery storage via marine vessel as an export but in fact coming to rest at a nonexempt destination in this state, for which the taxes and fees are not reported and paid by a bonded importer, the refinery shall bear responsibility to this state for the payment of taxes, fees, and applicable interest and penalty.

(b) All refinery exemptions granted to petroleum refineries shall apply to refiners or manufacturers of fuel alcohol who have a refinery or a manufacturing facility in Tennessee.

(c) Where gasoline is exchanged or sold within the bulk transfer/terminal system between refiners who hold a bonded importer's license, the first transferee, after the gasoline is imported into this state, shall be primarily liable for the taxes and fees that have accrued pursuant to §§ 67-3-201, 67-3-203 and 67-3-204. With respect to a refinery, gasoline may be exchanged or sold tax-free by a refinery within

51931726

51931726

004609

00460995

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

refinery-held storage; however, the transferee shall be liable for taxes and fees on gasoline that crosses the terminal rack. Provided, the refinery is responsible for the taxes and fees on gasoline that crosses the terminal rack which is not otherwise exchanged or sold within the refinery.

T.C.A. § 67-3-411. Agricultural use refunds - gasoline. (a) Any person who shall use any taxable gasoline for agricultural purposes as defined in part 1 on which the gasoline tax has been paid, shall be entitled to a refund of the gasoline tax except one (1) cent per gallon; but there shall be no refund of the special privilege tax on gasoline imposed under § 67-3-203 or the environmental assurance fee on gasoline imposed under § 67-3-204.

(b) No refund under this section shall be authorized unless:

(1) A claim is submitted containing a declaration that it is made under the penalty of perjury and also containing all of the information which the commissioner may require, and filed with the commissioner either semiannually or annually, on or before April 15 and October 15 following the end of each semiannual period ending on the immediately preceding December 31 and June 30 respectively, or on April 15 of the following year if filed annually;

(2) Each purchase made is of fifty (50) gallons or more; and

(3) The amount of the refund payable is twenty-five dollars (\$25.00) or more for any one (1) claim period.

T.C.A. § 67-3-412. Refunds - exports. (a) For petroleum products exported to points outside the state for resale, to obtain a refund, a claim for refund must be filed with the department within three (3) years from December 31 of the year in which the export activity occurred. The claimant is entitled to recover all taxes and fees paid as levied in part 2 of this chapter, excepting the export tax imposed by section 67-3-205. Bonded importers and suppliers, instead of filing a claim, may seek credit on the distributor report, provided the credit is supported by automated, terminal-issued shipping papers establishing intent to export. The bonded importer or supplier may take credit for a sale to an export customer where that customer is charged the destination state's tax, provided the customer is a licensed exporter in Tennessee.

(b) For diesel fuel that is exported to points outside the state, in vehicle fuel supply tanks of diesel locomotives or marine tows, where such is consumed in such locomotives or marine tows outside the state, the user may apply for refund of the special privilege tax imposed by section 67-3-203, less the export tax imposed by section 67-3-205, and may apply for refund of the environmental assurance fee,

51931726

51931726

004609

00460995

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

imposed by section 67-3-204, by submitting a claim for refund within ninety (90) days of the last day of the month in which the export was made. If a credit is being claimed for such products exported for consumption, it shall be claimed on a report filed within the same ninety (90) day period.

(c) For aviation fuels that are exported to points outside the state, including aviation gasoline and jet fuel which is stored in the state, but is carried outside the state in the vehicle fuel supply tanks of airplanes owned or leased by commercial air carriers, for consumption in such airplanes outside the state, such user may apply for refund of the special privilege tax less the export tax, and may apply for refund of the environmental assurance fee, using the same procedure and time requirements as set forth in subsection (b) above.

T.C.A. § 67-3-413. Refunds - governmental - refund claim filing by vendor.

(a)(1) A licensed wholesaler who has paid any taxes and fees due under § 67-3-201, § 67-3-202, § 67-3-203 and § 67-3-204, may apply for a refund of taxes or fees paid on any petroleum products subsequently sold free of tax to a governmental agency holding an exemption permit issued by the commissioner. A licensed supplier or importer may claim a credit on the distributor report for any taxes or fees paid on any petroleum products sold free of tax to a governmental agency, or may in the alternative file for a refund.

(2) For sales of petroleum products made to governmental agencies from retail stations, the licensed wholesaler, supplier or importer may apply for refund or claim a credit on behalf of a retail vendor.

(b) (1) An application for refund or credit shall be filed with the commissioner, on forms prescribed by the commissioner, on or before the last day of the second month following the month in which the exempt sales were made. All sales in any month on which a refund is due shall be included in one (1) application for refund.

(2) After January 1 and no later than March 31 of any year, a licensed wholesaler, importer or supplier may apply for refund under subsection (a) above for any exempt sales made during the previous calendar year on which a claim for refund has not previously been made. Only one (1) such omnibus claim shall be permitted. Such omnibus claim is designed to allow claimants to secure refunds on items previously omitted on claims filed under subsection (b)(1). No extension of time to file this omnibus claim shall be allowed.

51931726

51931726

004609

00460995

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 1945*

House Bill No. 1817

(c) Applications for refund or credit shall contain all information as required by the commissioner. In addition, all applications must be accompanied by copies of all invoices for sales on which the licensee is applying for refund or claiming a credit. The invoices submitted with any such application shall each contain the exemption permit number for the governmental agency to which the sales were made. The commissioner may allow computer documentation instead of invoices.

(d) (1) Any application for refund submitted to the department which does not comply with any of the provisions set out above shall not be approved and a refund shall not be granted.

(2) Licensed wholesalers, importers or suppliers shall not be entitled to a refund on sales made to any person who does not hold a valid governmental agency exemption permit at the time of such sale.

(e) Applications for refund made pursuant to this section shall not be subject to the provisions of § 67-1-707.

T.C.A. § 67-3-414. Refunds - auxiliary engines. (a) Any person using gasoline or undyed diesel fuel for truck refrigeration or cement mixing, where the same is delivered into a container or fuel tank which is equipped or designed to supply only the internal combustion engine used exclusively for truck refrigeration or cement mixing, and where tax has been paid, shall be entitled to a refund of the tax imposed under § 67-3-201 and § 67-3-202 except one cent (1¢) per gallon. No refund shall be authorized unless an application executed under penalty of perjury and containing such information as the commissioner may require shall be filed. No refund shall be authorized unless the amount due in refund is fifty dollars (\$50.00), or more, in a semiannual period. Refund applications must be filed semiannually and within ninety (90) consecutive calendar days following the end of June and December of the semiannual period in which the fuel was used.

(b) Any person using fuel for the generation of power to operate a mobile self-propelled rock drill; a motor vehicle and an auxiliary unit used for concrete mixing; for boom, pneumatic, or pump unloading; on which the gasoline tax or diesel tax has been paid, or on which the tax is payable by a limited user, shall be entitled to a refund, or a reduction of taxes imposed according to the following formula:

(1) For concrete mixers and concrete pumpers, forty percent (40%) of the tax;

(2) For pneumatic unloaders, ten percent (10%) of the tax;

(3) For boom unloaders, ten percent (10%) of the tax;

(4) For pump unloaders, the tax on two and one-half (2.5) gallons for each unloading where the pump is actually used; and

51931726

51931726

004609

00460995

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

(5) For mobile self-propelled rock drills, ninety percent (90%) of the tax.

(c) No refund under subsection (b) shall be authorized unless an application, executed under penalty of perjury and containing such information as the commissioner may require, shall be filed with the commissioner. No refund shall be authorized unless the amount due in refund is fifty dollars (\$50.00) or more in a semiannual period. Refund applications must be filed semiannually and within ninety (90) days following the end of June and December of the semiannual period in which the fuel was used.

T.C.A. § 67-3-415. Refunds - contaminated fuels. Where taxable diesel fuel has been accidentally contaminated by dye, the owner of the product may file a claim for refund for the diesel tax paid on the undyed fuel.

T.C.A. § 67-3-416. Refunds - casualty losses. A refund of the tax imposed by § 67-3-201 and § 67-3-202 covering loss of gallonage due to fire, flood, storm, theft or other causes over which a vendor has no control will be made if the loss is reported to the commissioner within three business days of the date of the loss, except that losses not exceeding one thousand (1000) gallons need not be reported. With respect to all losses, the vendor shall file with the commissioner a written claim and statement explaining the occurrence of the loss within sixty (60) days of the time of loss. Negligence or any unlawful act, such as overloading a transport vehicle, excessive speed or other like act by a vendor or his agent, which is contributory to a loss, shall invalidate the claim.

T.C.A. § 67-3-417. Refunds - fabricating user. The special privilege tax imposed by § 67-3-203 shall be refundable to the user of such petroleum products as are shown to be used directly in fabricating or processing tangible personal property for resale. There is expressly excluded from this provision any use for the purpose of space heating, illumination, or the operation of internal combustion engines. The refund may be claimed on a monthly basis before the expiration of thirty (30) days following the month for which such refund is to be made.

T.C.A. § 67-3-418. Refunds - end user - off highway. Where taxable undyed diesel fuel is used as heating oil or used for other non-highway purposes other than as expressly exempted under another provision, the end user may apply for refund of the diesel tax imposed by § 67-3-202. The claim for refund for the diesel tax may be filed at the end of each calendar quarter but no later than one year from the date of last purchase represented in the claim. The minimum amount of such claim is two hundred fifty dollars (\$250.00). Supporting documentation shall be submitted with the claim as the commissioner

51931726

51931726

004609

00460995

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

may require. If the minimum is not met in one quarter then it can be attached to and used in subsequent quarters, but not to exceed two (2) years.

T. C.A. § 67-3-419. Refunds - inventory - special privilege tax and environmental assurance fee.

(a) The special privilege tax paid pursuant to Acts 1978, ch. 761, and the Environmental Assurance Fee paid pursuant to Acts 1991, ch. 68, upon petroleum products, other than gasoline, held in storage or inventory within the bulk transfer/terminal system at the close of business on December 31, 1997, shall be refunded. All refund claims must be filed on or before July 1, 1998, on forms provided by the commissioner.

(b) This section is repealed effective December 31, 1998.

T.C.A. § 67-3-420. Refunds - wholesaler sales to limited users and prepaid users. (a) A licensed wholesaler who sells tax-paid motor fuel to a limited user or a prepaid user as defined in § 67-3-1302 shall be entitled to a refund of the tax paid pursuant to § 67-3-202. Any claim for refund filed with the commissioner must be supported by documentation that sets forth the name, address, account number and federal employer identification number or social security number of the customer, together with the invoice or delivery ticket number and number of gallons sold. The claimant may file one claim each month and otherwise be subject to the statute of limitations provided in § 67-3-421.

(b) The licensed wholesaler's entitlement to a refund is not affected by the status of the customer's limited user permit or prepaid user authorization, unless the wholesaler knows, has been notified by the department, or in the exercise of reasonable care should know, that the customer is not entitled to use the permit or authorization with respect to a particular purchase of fuel.

T.C.A. § 67-3-421. Refund claim procedures generally. (a) To claim a refund under this part, a person must present to the department a statement that contains a written verification that the claim is made under penalty of perjury and lists the total amount of taxable petroleum products subject to refund. The claim must be filed not more than three (3) years after the date the taxable petroleum products were purchased by the claimant; however, this statute of limitations shall not prevail if a statute of limitations already exists for a particular refund provision. The statement must show that payment for the purchase has been made and the amount of taxes and fees paid on the purchase have been remitted.

(b) The commissioner shall have authority to require the claimant to provide adequate documentation to support the claim. The department may make any investigations it considers necessary

51931726

51931726

004609

00460995

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

before refunding the taxes or fees to a person and in any case may investigate a refund after the refund has been issued and within the time frame for making adjustments to tax under this title.

PART 5 PAYMENT OF TAX

T.C.A. § 67-3-501. Payment by permissive supplier. Except as otherwise provided in this part, the taxes imposed by § 67-3-201, § 67-3-202, and § 67-3-203, and the fee imposed by § 67-3-204, on taxable petroleum products measured by gallons removed from the terminal rack, shall be paid by the licensed permissive supplier if the supplier has entered into a blanket pre-collection election as provided in section 67-3-503, or if the supplier has entered into an agreement with a customer whereby Tennessee petroleum products taxes and fees are levied on the sale of fuel to that customer. The taxes and fees are due on or before the twentieth (20th) day of the month following the month of removal, unless such day falls on a weekend or state or banking holiday, in which case the taxes and fees are due the next succeeding business day.

T.C.A. § 67-3-502. Payment by bonded importer. Except as otherwise provided in this part, the taxes and fees imposed by part 2 on taxable petroleum products measured by gallons imported from another state shall be paid by the licensed bonded importer who has imported such products. The taxes and fees shall be paid on or before the twentieth (20th) day of the month following the month of import, unless such day falls on a weekend or state or banking holiday, in which case the taxes and fees are due the next succeeding business day. However, if the supplier has made a blanket election to pre-collect tax under § 67-3-503, the supplier is jointly and severally liable with the bonded importer for the taxes and fees and shall remit to the department on behalf of the bonded importer under the same terms as a supplier payment under § 67-3-504.

T.C.A. § 67-3-503. Blanket pre-collection election for imports: (a) A licensed supplier or licensed permissive supplier may make a blanket election with the department to treat all removals of petroleum products from its out-of-state terminals, with a destination in this state shown on the terminal issued shipping paper, as if such removals of gasoline were imported and came to rest in Tennessee, and removals of petroleum products other than gasoline were removed across the terminal rack in this state, for taxation purposes under part 2.

(b) This notice of election shall be made on forms provided by the department.

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51931726

004609

00460995

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 1945*

House Bill No. 1817

(c) The department shall release a list of electing suppliers under subsection (b) upon request by any person. Disclosure of this information by the department shall not constitute a violation of any confidentiality requirement imposed by § 67-1-1701 et seq.

(d) The absence of an election by a supplier under this section shall not relieve the supplier of responsibility for remitting the taxes and fees imposed by this chapter. However, the responsibility of the supplier shall be limited to the supplier's own imports into this state.

(e) Any supplier who makes the election provided by this section shall pre-collect the taxes and fees imposed by this chapter on all removals from a qualified out-of-state terminal on its account without regard to:

- (1) the license status of the person acquiring the petroleum product from such supplier,
- (2) the point or terms of sale, or
- (3) the character of delivery.

(f) Each supplier who elects to pre-collect taxes and fees under this section agrees to waive any defense that the state lacks jurisdiction to require collection on all out-of-state sales by such person, where such person had knowledge that such shipments were destined for this state. Such supplier also agrees to waive any defense to the state's assertion of its general police powers to regulate the movement of petroleum products.

T.C.A. § 67-3-504. Payment by supplier. (a) The taxes and fees on petroleum products imposed by §§ 67-3-202, 67-3-203, 67-3-204 and 67-3-205 shall be collected and remitted to the state by the supplier, as agent for the wholesaler who removes taxable gallons from the terminal racks. The supplier responsible for the tax payment and the wholesaler who removes the taxable fuel from the rack shall be identified in the terminal operator records.

(b) The supplier who has out-of-state terminals and has entered into a blanket pre-collection election under § 67-3-503 shall also remit gasoline tax imposed by § 67-3-201 on products originating at out-of-state terminals destined for Tennessee.

(c) All taxes and fees accrued by the supplier with respect to gallons removed on his account during a calendar month shall be due and payable on or before the twentieth (20th) day of the month following the month of activity, unless such day falls on a weekend or state or banking holiday, in which case the taxes and fees are due the next succeeding business day.

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51931726

004609

00460995

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

T.C.A. § 67-3-505. Terminal operator liability (a) The terminal operator of a terminal in this state is jointly and severally liable for the taxes and fees imposed under §§ 67-3-202, 67-3-203 and 67-3-204, and shall remit payment to the department upon discovery of either of the following conditions:

(1) The supplier and/or bonded importer with respect to the taxable petroleum products is a person other than the terminal operator and is not licensed; provided that the terminal operator shall be relieved of liability if he establishes all of the following:

(A) the terminal operator has a valid terminal operator's license issued for the facility from which the petroleum product is withdrawn,

(B) the terminal operator has an unexpired notification certificate from the supplier as required by the department or the Internal Revenue Service, and

(C) the terminal operator has no reason to believe that any information on the certificate is false; or

(2) In connection with the removal of diesel fuel that is not dyed and marked in accordance with Internal Revenue Service requirements, the terminal operator provides any person with a bill of lading, shipping paper, or similar document indicating that the diesel fuel is dyed and marked in accordance with Internal Revenue Service requirements.

(b) The terminal operator is jointly and severally liable for the taxes and fees imposed under §§ 67-3-202, 67-3-203 and 67-3-204 which are not allocable to any licensed supplier and shall remit the taxes and fees due with the annual report required under § 67-3-702(d). Provided however, that no taxes and fees shall be due if the terminal operator can establish by evidence acceptable to the commissioner that the gallons lost were diesel fuel dyed prior to receipt by that terminal operator. No collection allowance or deductions shall be allowed with respect to payment of these taxes. In the event the gallons lost or unaccounted for exceed five percent (5%) of the gallons removed from that terminal across the rack, a penalty of one hundred percent (100%) of the taxes and fees otherwise due shall be paid by the terminal operator with the taxes and fees due.

T.C.A. § 67-3-506. Supplier to collect tax-deferred payment. (a) Each licensed supplier and bonded importer who sells taxable petroleum products shall collect from the purchaser the taxes and fees imposed in part 2.

(b) At the election of a licensed wholesaler, the licensed supplier or bonded importer may not require payment of taxes and fees imposed in part 2 from such wholesaler earlier than the second

51931726

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AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

preceding day prior to the date on which the taxes and fees become finally due and payable to the state. This election shall be further subject to a condition that the supplier or importer may require the wholesaler to make remittances of all amounts of taxes and fees due by electronic funds transfer. The wholesaler's election under this subsection may be terminated by the supplier or importer if the wholesaler does not make timely payments to the supplier or importer as required by this subsection.

T.C.A. § 67-3-507. Bad debt allowance. (a) A licensed supplier or bonded importer is entitled to a credit, against taxes payable under this part, for any tax or fee not paid to the supplier or importer by a licensed wholesaler, who has made a valid election under § 67-3-506(b) and whose election, at the time of the delivery of product giving rise to the unpaid tax or fee, had not been terminated by the supplier or importer, by operation of subsection (c) of this section, or by the commissioner under subsection (d) of this section. The credit must be claimed on the return within sixty (60) days following the failure of the wholesaler to make the required payment to the supplier or importer.

(b) Not later than fifteen (15) days after the earliest date on which the wholesaler who has made the election provided for in § 67-3-506(b) was required to make the payment, the supplier or importer shall notify the department in writing of the default. The notice shall include the name of the defaulting wholesaler, the amount of the default, whether the supplier or importer has terminated the wholesaler's election, and the date of any termination.

(c) If the wholesaler does not make payment to the supplier or importer within twenty (20) days of the original due date set out in § 67-3-506(b), the wholesaler's election, with respect to the supplier or importer suffering the default, is hereby terminated as of the following day.

(d) Upon notification from an importer or supplier to the department that a wholesaler has defaulted in payment, the commissioner may terminate the wholesaler's election with respect to all importers and suppliers and notify any and all importers and suppliers of such action.

T.C.A. § 67-3-508. Collection administration allowance. To the extent a supplier, a permissive supplier, or a bonded importer timely remits taxes in accordance with this chapter, such person shall be allowed to retain one-tenth of one percent (0. 1%) of the taxes imposed by §§ 67-3-201 and 67-3-202 to cover the costs of administration imposed by this chapter including: reporting, audit compliance, dye injection, and shipping paper preparation.

T.C.A. § 67-3-509. Tare Allowance. (a) A supplier, permissive supplier or bonded importer is entitled to an allowance covering loss of gallonage by evaporation, handling, unloading, shrinkage, and

51931726

51931726

004609

00460995

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

losses resulting from unknown causes, and as reimbursement for expenses incurred on behalf of the state in furnishing a bond, maintaining records, collecting taxes, and preparing reports and remittances in compliance with this part.

(b) The allowance shall be an amount equivalent to 1.5415% of the amount of tax imposed by sections 67-3-201 and 67-3-202 shown to be due on the monthly report filed with the commissioner. The allowance may be taken as a credit on the monthly report.

(c) There shall be submitted with the report, in support of the deduction, the certificate of the supplier or bonded importer that, with respect to the gallonage sold or distributed within this state, during the period covered by the report, there was paid or credited to each wholesaler to whom any part of the gallonage was sold or distributed, an amount equivalent to 1.5415% of the taxes applicable to the gallonage; and to each retailer to whom any part of the gallonage was sold or distributed, an amount equivalent to one-half of one percent (0.5%) of the taxes applicable to the gallonage. If a supplier has made a blanket election to pre-collect the tax under section 67-3-503 and remits the tax on behalf of a bonded importer, then the allowance shall be credited to the bonded importer. If it is determined that a supplier or bonded importer has not credited the proper allowance to another supplier or bonded importer or to the wholesaler or retailer, the tare allowance received by the supplier or importer will be disallowed.

(d) Any wholesaler who receives the allowance from a supplier or importer shall credit to the retailer an amount equivalent to one-half of one percent (0.5%) of the taxes applicable to the gallonage. If it is determined that a wholesaler has not credited to the retailer the proper allowance, the allowance received by the wholesaler will be disallowed.

(e) Any person required to pay the taxes shall preserve and make available for inspection by a representative of the department all invoices and credit memoranda reflecting payments or credits to purchasers of the amounts of the allowance provided by this section. These records shall be preserved for a period of not less than three (3) years from December 31 of the year in which issued.

T.C.A. § 67-3-510. Backup payment by end user - joint liability of ultimate vendor. (a) Backup taxes and fees equal to the taxes and fees imposed by part 2 are imposed on the end user of taxable petroleum products, and shall be administered in accordance with regulations promulgated by the department. End users, including - governmental agencies, the American Red Cross, bus operators, and any other person exempted from the full federal highway tax, unless such person is otherwise exempt

51931726

51931726

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00460995

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

under part 4 - are liable for the taxes and fees upon the delivery into the fuel supply tank of a highway vehicle:

- (1) Any diesel fuel that contains a dye;
- (2) Any taxable petroleum products on which a claim for refund has been made; or
- (3) Any petroleum products on which taxes and fees have not previously been imposed by this

chapter.

(b) Where taxes and fees imposed by this chapter have not been paid, the wholesaler or end user of taxable petroleum products shall be jointly and severally liable for the backup taxes and fees imposed by subsection (a) if the wholesaler or user knows or has reason to know that the petroleum products are being or will be consumed in a non-exempt use.

T.C.A. § 67-3-511. Payment of floorstock tax. (a) The floorstock tax report required by § 67-3-304(d)(4) shall be accompanied by payment of the floorstock tax calculated in accordance with § 67-3-304(d) and (e) and payment made on or before the due date of that report. The floorstock tax imposed on inventory held outside of the bulk transfer/terminal system on the effective date of this Act reportable under § 67-3-304 shall be payable in two (2) equal annual installments. The first installment shall be due on or before the twenty-fifth (25th) day of the month following the month in which this Act becomes effective, and the second installment is due on the same date of the following year.

(b) For any floorstock tax due following an increase in the tax rate on petroleum products, the floorstock tax imposed on inventory shall be payable within twenty-five (25) days of the end of the month in which the increase becomes effective.

(c) A supplier, bonded importer, importer, or wholesaler shall, for increases in the gasoline tax, remit tax, pursuant to subsections (a) or (b) above, based upon all inventory as provided in § 67-3-304(d) held in storage at the start of business on the effective date of the increase. All inventory held at retail stations and by end users shall be exempt from this requirement.

(d) A supplier, bonded importer, importer or wholesaler shall, for increases in the diesel tax, the special privilege tax or the environmental assurance fee, remit taxes and/or fees, pursuant to subsections (a) or (b) above, based upon all inventory as provided in § 67-3-304(d) held outside the bulk transport/terminal system at the start of business on the effective date of such increase. All inventory held at retail stations and by end users shall be exempt from this requirement.

51931726

51931726

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AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

(e) Regardless of any § 67-3-509 allowance already taken with respect to this inventory, an additional § 67-3-509 allowance may be taken.

T.C.A. § 67-3-512. Payment of taxes and fees by fuel blenders. Each person blending untaxed materials, including blendstocks and additives, with taxable petroleum products as to which taxes and fees have already been paid or accrued, shall remit the taxes and fees imposed by this chapter on the previously untaxed volumes. Should the blending process alter the specifications of the blended product according to ASTM specifications, then applicable taxes and fees shall apply to the altered product.

T.C.A. § 67-3-513. Tax on cross-border movements of petroleum products. (a) Holders of an exporter's license shall pay or accrue the destination state's tax, if any, to their suppliers. In the event that a licensed exporter diverts taxable petroleum products removed from a terminal in this state from an intended destination outside this state, as shown on the terminal issued shipping papers, to a destination inside this state, such exporter, in addition to compliance with the notification provided for by § 67-3-806, shall notify and pay the taxes and fees imposed under part 2 to the department upon the same terms and conditions as if the exporter were a bonded importer without deduction for the allowances provided by § 67-3-508 and § 67-3-509.

(b) In the event that an exporter removes from a bulk plant in this state taxable petroleum products as to which the taxes and fees imposed by this chapter have previously been paid or accrued, such exporter may apply for and the state shall issue a refund of such taxes and fees, except the export tax, upon a showing of proof of export satisfactory to the department in conformity with § 67-3-802, net of the allowances provided by § 67-3-509.

(c) All licensed importers shall otherwise report and pay the taxes and fees, in the manner provided by § 67-3-502, on diversions into this state of imported product; provided that no § 67-3-509 allowances shall be deducted with respect to diverted shipments.

(d) In the event of a legal diversion from a destination in this state to another state, § 67-3-804 shall apply, and an unlicensed exporter diverting the product shall first pay taxes and fees on the fuel before exporting such fuel, and may apply for a refund from this state for the taxes and fees paid, less the § 67-3-509 allowance.

(e) In the event that a state involved in a cross-border shipment has entered into a multi-state compact with this state, the diverter shall pay or seek refund only upon the difference in state taxes with notice to both states upon proof shown of payment to the actual destination state. The department shall

51931726

51931726

004609

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AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

establish procedures for making this adjustment and prepare a list of those states which meet these criteria.

T.C.A. § 67-3-514. Inclusion of taxes and fees in sales price. The taxes and fees imposed by this chapter on petroleum products shall be included in the sales price, for the purpose of determining sales price under the Retailers' Sales Tax Act, compiled in chapter 6 of this title, for calculating any applicable sales or use tax, even though the taxes and fees may be separately stated by the vendor.

T.C.A. § 67-3-515. Payment by electronic funds transfer. (a) The commissioner may require the taxpayer to make payments as provided in this part 5 by means of electronic funds transfer.

(b) Provided, however, anything to the contrary notwithstanding, if the taxpayer reports by electronic data interchange pursuant to § 67-3-706, payment shall be made by means of electronic funds transfer in accordance with § 67-1-703, regardless of the amount of tax owed. Payment shall be by Automated Clearing House Debit (ACH debit) or Automated Clearing House Credit (ACH credit) or by any other means established by the commissioner.

PART 6 BONDING AND LICENSES

T. C. A. § 67-3-601. Supplier's license - permissive supplier's license. (a) A person engaged in business in this state as a supplier as defined in part 1 shall first obtain a supplier's license.

(b) Any person who desires to collect the taxes and fees imposed by this chapter and who meets the definition of a permissive supplier may obtain a permissive supplier's license. Application for or possession of a permissive supplier's license shall not in itself subject the applicant or licensee to the jurisdiction of this state for any purpose other than administration and enforcement of this chapter.

T.C.A. § 67-3-602. Blender's license. Any person engaged in business in this state as a blender shall first obtain a blender's license.

T.C.A. § 67-3-603. Terminal operator's license. Any person engaged in business in this state as a terminal operator shall first obtain a terminal operator's license for each terminal site.

T.C.A. § 67-3-604. Exporter's license. Persons, other than licensed suppliers or licensed bonded importers, who export petroleum products to another state shall either pay Tennessee petroleum products taxes and fees to their suppliers or obtain a Tennessee exporter's license. Persons who hold a supplier's license or a bonded importer's license shall have the same privileges and responsibilities as those holding an exporter's license.

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AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

T.C.A. § 67-3-605. Transporter's license. Any person who is not licensed as a supplier, exporter or importer shall obtain a transporter's license before transporting petroleum products by whatever manner from a point outside this state to a point inside this state, from a point inside this state to a point outside this state, or from a refinery in this state, if the person is engaged for hire.

T.C.A. § 67-3-606. Importer's licenses - bonded importer's license - restricted importer's license.

(a) A person importing taxable petroleum products into this state from outside this state, by transport truck, pipeline, barge or other conveyance, shall first obtain a bonded importer's license or a restricted importer's license, but not both.

(b) Applicants for a restricted importer's license must meet the following conditions:

(1) The taxable petroleum products imported must all be the subject of a tax pre-collection agreement with a supplier as provided in § 67-3-501 or a tax pre-collection election as provided in § 67-3-503.

(2) The applicant must declare the state(s) in which licensed for motor fuel tax purposes and from which the applicant desires to import, and shall declare the terminal source and the supplier. A restricted importer's license shall be limited to petroleum products imported from a state listed on the license application.

(c) The department shall determine that a particular state has adopted terminal reporting requirements which are adequate to facilitate information exchange on cross-border movements of petroleum products prior to granting restricted importer's licenses to applicants for importation of taxable petroleum products from that state.

(d) A person desiring to import taxable petroleum products from another state, and who has not obtained a restricted importer's license and has not entered into an agreement to prepay this state's petroleum products taxes and fees to the supplier or permissive supplier with respect to such imports shall:

(1) obtain a valid bonded importer's license subject to the bonding requirements of this chapter, and

(2) comply with the payment requirements under § 67-3-502.

T.C.A. 67-3-607. Wholesaler's license. Any person engaged in business in this state as a wholesaler as defined in part 1, who does not hold a license as a supplier or bonded importer, shall first obtain a wholesaler's license. A person who acquires petroleum products from a supplier, importer or

51931726

51931726

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00460995

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 1945*

House Bill No. 1817

from another wholesaler, for the person's own account, may obtain a wholesaler's license; and such person thereby assumes the rights and responsibilities of wholesalers under this chapter.

T.C.A. § 67-3-608. License application - form - investigation. (a) Each application for a license under this part shall be made upon a form prepared and furnished by the department. It shall be subscribed to by the applicant and shall contain such information as the department may reasonably require for the administration of this chapter, including the applicant's federal employer identification number and, with respect to the applicant for an exporter's license, a copy of the applicant's license to purchase or handle taxable motor fuel in the specified destination state or states for which the export license is to be issued.

(b) The department may investigate each applicant for a license under this chapter. No license shall be issued if the department determines that any one (1) of the following exists:

(1) The application is not filed in good faith.

(2) The applicant is not the real party in interest.

(3) Any prior license of the real party in interest has been revoked for cause.

(4) Information on the application has been falsified, is fraudulent, is incomplete or the applicant has in any material way misrepresented the true facts.

(5) With respect to an exporter's license, the applicant is not licensed in the intended specific state(s) of destination.

(6) The applicant, or any of the applicant's agents, officers or employees, has a prior conviction for motor fuel tax evasion in any state, federal or foreign jurisdiction.

(7) Other reasonable cause for non-issuance exists.

T.C.A. § 67-3-609. Bond for payment of taxes required - amount - combination bonds - exemptions. (a) The application for a license under this part, or a permit under part 11, shall be accompanied by a bond, payable to the state of Tennessee, in the penal amount determined under subsection (b). The bond shall be void if the applicant shall pay to the commissioner all taxes and fees on petroleum products under this chapter, together with interest and penalties thereon, that accrue against the applicant.

(b) The penal amount of the bond shall be not less than the greater of one thousand dollars (\$1,000) or three (3) times the amount of the tax required to be paid monthly by the person. The monthly amount shall be determined by averaging the tax over a period of six (6) months immediately preceding

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FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 1945*

House Bill No. 1817

the execution of the bond. If a person has not been in business for a period of six (6) months, the penal amount of the bond shall be determined on the average monthly tax during the actual time the person has been engaged in business or on the estimated average monthly tax; however, the bond shall not be less than fifty thousand dollars (\$50,000). The commissioner may, at any time, require an increase in the penal amount of the bond if the commissioner deems such increase necessary to safeguard the revenues of the state, but in no event shall the bond exceed the sum of one million dollars (\$1,000,000).

(c) A person required to execute more than one (1) bond, whether required in order to become a licensee or to be eligible for an exemption or refund under part 4, may combine the total amount of each of the bonds into a single bond which shall be conditioned upon payment of all petroleum products taxes, fees, penalties and interest that may accrue against the person. The penal amount of any combination bond shall be determined in the manner provided in subsection (b), but shall in no case be less than three thousand dollars (\$3,000) nor more than two million dollars (\$2,000,000).

(d) Licensees who seek exemption or refunds under part 4 and who do not accrue liability as suppliers and/or importers, instead of the provisions set out in subsection (b), shall post a minimum bond of one thousand dollars (\$1,000). The commissioner may, at any time, require additional bond if the commissioner deems such bond necessary to safeguard the revenues of the state. In no event shall the bond exceed the sum of one million dollars (\$1,000,000).

(e) If the required maximum penal amount of the bond in subsection (b) exceeds one hundred thousand dollars (\$100,000) or if the required maximum penal amount of the bond in subsection (c) exceeds two hundred thousand dollars (\$200,000), the commissioner may agree to reduce the penal amount of a bond if the commissioner determines that any potential tax liability is otherwise adequately secured or protected, or if the commissioner determines that the past good filing and payment record of the taxpayer indicates that lowering the penal amount of the bond would not result in a substantially increased risk of loss to the state. The required maximum penal amount of the bond in subsection (b) may not, however, be reduced to an amount less than one hundred thousand dollars (\$100,000), and the required maximum penal amount of the bond in subsection (c) may not be reduced to an amount less than two hundred thousand dollars (\$200,000).

(f) The bond may be a corporate surety bond or a personal surety bond; and, in either event, it shall be signed by the applicant as principal. If a corporate surety bond is executed, it shall be signed as surety by an authorized surety company licensed to do business in this state.

51931726

51931726

004609

00460995

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 1945*

House Bill No. 1817

(g) Instead of a personal or corporate surety on such bond required in subsection (a), the commissioner may allow the applicant to secure such bond by depositing collateral in the form of a certificate of deposit, or equivalent thereto, as accepted and authorized by the banking laws of Tennessee, which has a face value equal to the amount of the bond. Such collateral may be deposited with any authorized state depository designated by the commissioner.

(h) An applicant may execute a bond with personal surety approved by the commissioner. The personal surety or sureties shall own real estate within the state, free and unencumbered, and with the assessed value equal to three (3) times the amount of the average monthly tax payment. The bond shall be registered in the register's office of the county in which the property is located, and the taxpayer shall be liable for all registration fees. The state shall have a lien against the property superior to all other liens attaching after the registration, which may be enforced by levy on the property of the taxpayer and the taxpayer's surety, and by sale of the property as now provided by law. A personal surety bond shall be executed on forms furnished by the commissioner and shall contain a sworn certificate of the county trustee showing the assessed valuation of the real estate and that all ad valorem taxes on it are paid. In the event the property is located within an incorporated town or city, the foregoing information shall also be furnished by sworn certificate of the proper municipal official. The bond shall also contain an abstract of title of the real estate described in the instrument, showing the exact status of title to the property for the preceding ten (10) years, and the abstract of title shall be signed and sworn to by the county register.

T.C.A. § 67-3-610. Bond - licensed wholesaler. (a) No wholesaler tax deferral election under § 67-3-506 is valid unless and until the licensed wholesaler files with the department a surety bond, in a form acceptable to the department, in the amount of two hundred fifty percent (250%) of the greatest monthly taxes and fees paid by the wholesaler through all of its suppliers and importers during the immediately preceding twelve (12) months. If a wholesaler has been in business less than twelve (12) months, the amount of the bond shall be determined in reference to the average monthly tax liability for the time the wholesaler has been engaged in business. The penal amount of the bond under this section shall not be less than fifty thousand dollars (\$50,000). The bond shall indemnify the department against credits allowed licensed suppliers and importers under section 67-3-507.

(b) If the required penal amount of the bond in subsection (a) exceeds two hundred thousand dollars (\$200,000), the commissioner may agree to reduce the penal amount of a bond if the commissioner determines that any potential tax liability is otherwise adequately secured or protected, or if

51931726

51931726

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AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

the commissioner determines that the past good filing and payment record of the taxpayer indicates that lowering the penal amount of the bond would not result in a substantially increased risk of loss to the state. The required penal amount of the bond in subsection (b) may not, however, be reduced to an amount less than fifty thousand dollars (\$50,000).

T.C.A. § 67-3-611. New bond. (a) The commissioner may require a licensee to file a new bond with a satisfactory surety in the same form and amount if:

- (1) liability upon the previous bond is discharged or reduced for any reason; or
- (2) the commissioner determines that any surety on the previous bond becomes unsatisfactory.

(b) If the new bond is unsatisfactory, the commissioner shall cancel the license. If the new bond is satisfactorily furnished, the commissioner shall release in writing the surety on the previous bond from any liability accruing after the effective date of the new bond.

(c) If a licensee has a cash deposit with the commissioner and the deposit is reduced for any reason, the commissioner may require the licensee to make a new deposit equal to the amount of the reduction.

T.C.A. § 67-3-612. Bond increase. (a) If the commissioner determines that the amount of the existing bond or cash deposit is insufficient to ensure payment to the state of taxes, fees, penalty and interest for which the licensee is or may become liable, the licensee shall, upon written demand from the commissioner, file a new bond or increase the cash deposit. The commissioner shall allow the licensee at least fifteen (15) days to secure the increased bond or cash deposit.

(b) The new bond or cash deposit must meet the requirements set forth in this chapter.

(c) If the new bond or cash deposit required under this section is unsatisfactory, the commissioner shall cancel the licensee's certificate.

T.C.A. § 67-3-613. Bond replacement. (a) If at any time after the execution of any surety bond, the surety or sureties thereon become insolvent, the commissioner may require the execution of a new bond with good and solvent surety in the same manner and with the same penalty as the bond being replaced. The bond shall be subject to the approval of the commissioner.

(b) Any person executing a bond under the provisions of this part may, at any time prior to default under any existing bond, apply to the commissioner for leave to cancel the existing bond and file a new bond with a new surety.

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FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 1945*

House Bill No. 1817

T.C.A. § 67-3-614. Bond release. (a) Sixty (60) days after making a written request for release to the commissioner, the surety of a bond furnished by a licensee is released from any liability to the state accruing on the bond after the sixty (60) day period. The release does not affect any liability accruing before the expiration of the sixty (60) day period.

(b) The commissioner shall promptly notify the licensee furnishing the bond that a release has been requested. Unless the licensee obtains a new bond that meets the requirements of this chapter and files with the commissioner the new bond within the sixty (60) day period, the commissioner shall cancel the license.

(c) Either the principal or surety may request the commissioner to cause an audit to be made of the books and records of the principal, and the audit shall be commenced within ninety (90) days from the date of the request. Upon completion of the audit, and if no additional taxes, fees, interest or penalty are shown to be due, or the additional sum is paid to the commissioner, then and thereafter, all liability of the surety on the bond shall cease and the surety shall be released. Any collateral deposited as security with the commissioner shall be released and returned to the person entitled to it. Any real estate which has been pledged as security for the bond shall be released by the commissioner by the execution of a release for that purpose, which may be recorded in the same manner as other releases are recorded. The commissioner may require the principal on the bond to furnish the form for a release.

T.C.A. § 67-3-615. License transferability. No license is transferable to another person. For purposes of this part, a transfer of a majority interest in a business association -- other than a publicly held corporation -- including a corporation, partnership, trust, joint venture, limited liability company and any other business association, shall be deemed a transfer of any license held by such business association, and shall render the license void. Any substantial change in ownership of a business association, other than a publicly held business association, shall be reported to the department under rules prescribed by the department.

T.C.A. § 67-3-616. License display. Each license shall be preserved and conspicuously displayed at the place of business for which it is issued. The department is authorized to waive this requirement for any class of licensee.

T.C.A. § 67-3-617. License termination - notice - surrender. Whenever any person licensed to do business under this chapter relocates, discontinues, sells, or transfers the business, the license shall be void, and the licensee shall immediately notify the department in writing of the relocation, discontinuance,

51931726

004609

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

sale, or transfer. The notice shall give the date of the event, and if a sale or transfer of the business, the name and address of the purchaser or transferee. The licensee shall be liable for all taxes, fees, interest, and penalties that accrue or may be owing, and any criminal liability for misuse of the license, that occurs prior to issuance of the notice.

T.C.A. § 67-3-618. License denial and revocation. (a) Before denying an application for a license, the commissioner shall grant the applicant a notice of the proposed denial, including the reasons for such decision. After having the opportunity to cure any defects in the application, an applicant who does not agree with the commissioner's decision may file with the commissioner at Nashville a claim in writing requesting a hearing. The hearing shall be held under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. The request shall be made within ten (10) days following date of the commissioner's action.

(b) The commissioner may suspend or revoke a license for failure to comply with the provisions of this chapter after at least ten (10) days notice to the licensee and after a hearing, if requested by the licensee, pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

PART 7 REPORTS

T.C.A. § 67-3-701. Distributor reports filed by suppliers and bonded importers. (a) For the purpose of determining the amount of taxes and fees due on motor fuel imported, sold, refined, or used in the state, every licensed supplier, permissive supplier and bonded importer shall file with the department, on forms prescribed and furnished by the department, a monthly distributor report. The department may require the reporting of any information reasonably necessary to determine the amount of taxes and fees due.

(b) The reports required by this section shall be filed on or before the twentieth (20th) day of the month following the month of activity.

(c) The distributor report required by this section shall include the following information with respect to billed gallons of taxable petroleum products; with the amounts stated and indicated as net gallons, or stated and indicated as gross gallons if unable to provide net gallons:

(1) Removal of gallons of petroleum products by the reporting supplier or importer from the bulk transfer/terminal system in this state as to which the taxes and fees imposed by this chapter have been collected or accrued.

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00460995

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

(2) Removal of gallons of diesel fuel or heating oil from terminals in this state by the reporting supplier, tax exempt, as to which dye has been added in accordance with this chapter.

(3) Removal of gallons of petroleum products from terminals in this state by the reporting supplier or importer, tax exempt, for export from this state by that person where the proper petroleum products tax for the destination state has been collected or accrued at the time of removal from the terminal, sorted by state of destination.

(4) Removal of gallons of petroleum products from terminals in this state by the reporting supplier or importer, tax exempt or for which credit can be taken on the return, for export, where the proper petroleum products tax for the respective destination state has been collected or accrued at the time of removal from the terminal, sorted by state of destination.

(5) Total removals in this state.

(6) Removal of gallons of petroleum products from a terminal in a state other than Tennessee by the reporting supplier or importer, for shipment into Tennessee.

(7) Such other information which the department determines is reasonably required to determine the liability under this chapter.

(d) Every licensed supplier, bonded importer or permissive supplier shall separately identify, in a written statement to the department with the distributor report, any removal from the bulk transfer/terminal system in another state by that supplier or importer to a person, other than a licensed supplier, permissive supplier or bonded importer, of gallons of taxable petroleum products, which gallons are destined for this state, as shown by the terminal issued shipping paper, where the taxes and fees imposed by this chapter have not been collected or accrued by such supplier or importer upon such removal.

T.C.A. § 67-3-702. In-state terminal operator reports. (a) Each person operating a terminal in this state shall file monthly with the department a sworn statement of operations of each terminal within this state, including the information set out in subsection (b), on forms prescribed by the department. The department may require the reporting of any information it considers reasonably necessary in addition to that required under subsection (b).

(b) The monthly terminal report required by this section shall be filed on or before the last day of the month following the month of activity and shall include the following information for each terminal location in this state:

51931726

51931726

004609

00460995

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

- (1) Terminal code assigned by the Internal Revenue Service.
- (2) Total inventory at the terminal operated by the terminal operator.
- (3) Schedules of receipts by shipment including:
 - (A) Carrier name.
 - (B) Carrier federal employer identification number.
 - (C) Mode of transportation.
 - (D) Date received.
 - (E) Document number.
 - (F) Net gallons received.
 - (G) Product type.
- (4) Schedules of removals by shipment including:
 - (A) Carrier name.
 - (B) Carrier federal employer identification number.
 - (C) Mode of transportation.
 - (D) Destination state.
 - (E) Supplier responsible for reporting removal.
 - (F) Supplier federal employer identification number.
 - (G) Date removed from terminal.
 - (H) Document number.
 - (I) Net gallons.
 - (J) Gross gallons.

Provided, that in the event the Internal Revenue Service provides a common system of assigning to carriers alpha-numeric codes instead of names, then this data will be required in lieu of carrier names.

(c) For purposes of reporting and determining tax liability under this chapter, every licensee shall maintain inventory records as required by the department.

(d) Each person operating a terminal in this state shall also file an annual report for each terminal within this state on forms provided by the department. The taxes and fees shall be paid and the report shall be filed for each calendar year on or before February 25 of the following year. The report shall include data as follows:

- (1) The amount of monthly gains or losses, in net gallons;

51931726

51931726

004609

00460995

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

(2) The total net gallons removed from the terminal in bulk during the calendar year;
(3) The total net gallons removed across the terminal rack during the calendar year;
(4) The amount of tax due calculated pursuant to § 67-3-302(b) and 67-3-303(c); and
(5) Such other information as the department considers reasonably necessary to determine the tax liability of the terminal operator under this chapter.

T.C.A. § 67-3-703. Exporter reports. (a) A person licensed as an exporter shall file monthly reports with the department on forms prescribed and furnished by the department concerning the amount of taxable petroleum products exported from this state. The report shall be filed on or before the twentieth (20th) day of the month following the month of activity.

(b) The report shall contain the following information:

(1) Each and every shipment of taxable petroleum products acquired free of all states' petroleum products taxes, except the export tax imposed by section 67-3-205, at a terminal in this state for direct delivery outside of this state by the exporter.

(2) Each and every shipment of taxable petroleum products acquired free of this state's tax and fee at a terminal in this state for direct delivery outside of this state but as to which the destination state's petroleum products tax was paid or accrued to the vendor at the time of removal from the terminal.

(3) The gallons delivered to taxing jurisdictions outside this state from bulk plant storage, and the means of transport.

(4) The name and federal employer identification number of the person receiving the exported taxable petroleum products from the exporter.

(5) The date of each shipment.

(6) The carrier name (or alpha code) and carrier federal employer identification number.

(7) A list of diverted shipments and payments of taxes and fees.

(c) The department may in addition require the reporting of any other information it considers reasonably necessary to the enforcement of this chapter.

T.C.A. § 67-3-704. Transporter reports. (a) A person licensed as a transporter in this state shall file monthly reports with the department, on forms prescribed and furnished by the department, reporting the amount of taxable petroleum products transported within or across the borders of this state; provided that transport truck operations exclusively within the state are not reportable except when transport

51931726

51931726

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AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

operations originate at a refinery in this state. The report shall be filed within twenty-five (25) days after the end of the month in which delivery was made. The information shall include the following:

(1) The quantity imported by the carrier for delivery in this state or transported from a Tennessee refinery by the carrier for delivery in this state;

(2) The name and address of the supplier;

(3) The name and address of the customer receiving delivery;

(4) The date and the point of delivery;

(5) The description of the product delivered; and

(6) Any other information that may be required by the commissioner for the proper administration of this chapter.

(b) (1) In case of delivery by barge, there shall be furnished, in addition to the foregoing information, the name and number of the barge, and the name and port of the towboat delivering the barge.

(2) In the case of delivery by tank wagon, or other motor vehicle, there shall be furnished, in addition to the foregoing information in subsection (a), the vehicle's license number.

(3) In case of delivery by tank car, there shall be furnished, in addition to the foregoing information in subsection (a), the car number and initials, and the capacity of the car.

(c) A carrier delivering petroleum products or substitutes therefor to any person required to have a license under part 6 who is known by the carrier not to have such license, shall immediately notify the department by facsimile of the delivery, if facsimile service is reasonably available; but if not, by the next quickest means available. The department shall furnish to the carriers a list of all persons holding licenses and shall supplement and amend the list periodically as licenses are issued or revoked.

(d) If a transporter fails to make the reports required by this section, the commissioner may assess a civil penalty of one thousand dollars (\$1,000) for each violation.

(e) This section shall cease to be effective if the commissioner determines that substantially similar data is available from federal government sources, including a federal terminal report.

T.C.A. § 67-3-705. Blender's report. A person licensed as a blender shall file a monthly report with the department, on forms prescribed and furnished by the department, reporting the amount of any untaxed petroleum products, blend stocks, or additives blended in this state and paying all applicable

51931726

51931726

004609

00460995

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

taxes and fees levied under this chapter which have not been previously paid. The report shall be filed on or before the twentieth (20th) day of the month following the month of activity.

T.C.A. § 67-3-706. Reports by electronic data interchange. (a) The commissioner may require those responsible for filing reports under this part to file such reports by means of electronic data interchange. All payments accompanying these reports shall be remitted by means of electronic funds transfer as required by § 67-3-515.

(b) In addition to any other penalty provided by law, there is hereby imposed on any person required to file reports by means of electronic data interchange, the commissioner may assess a penalty of five hundred dollars (\$500) for each instance of reporting by any other means.

PART 8 ENFORCEMENT PROVISIONS

T.C.A. § 67-3-801. Destination state shipping paper to be issued. (a) A person operating a refinery, terminal or bulk plant facility in this state shall prepare an automated, machine-generated, shipping paper, and provide it to the driver of every transport truck receiving petroleum products into the vehicle storage tank; provided however, where a bulk plant is not equipped to provide a machine-generated paper, it shall manually prepare the shipping paper required by this section. The department may by regulation require shipping papers to meet tamper-resistant standards, and every manually prepared shipping paper shall contain a stamp indicating that the paper was prepared at the facility at which it was issued.

(b) Every shipping paper shall set out on its face:

(1) Identification by address of the terminal or bulk plant from which the petroleum products were removed,

(2) The date the petroleum products were removed,

(3) The type and amount of petroleum products removed, actual gallons and net gallons,

(4) The state of destination as represented to the terminal operator by the transporter, the shipper or the shipper's agent,

(5) A notation:

(i) with respect to diesel fuel acquired under claim of exempt use, indicating the fuel is "DYED DIESEL FUEL, NON-TAXABLE USE ONLY, PENALTY FOR TAXABLE USE" for the load or the appropriate portion of the load, or

51931726

51931726

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AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

(ii) with respect to any other taxable petroleum products, indicating: "[supplier name] is responsible for [state name] motor fuel tax," or any other notation acceptable to the department, which otherwise indicates that the diesel tax imposed by this chapter, or any petroleum products taxes imposed by the destination state other than Tennessee, have been paid to the supplier with respect to the entire load or the appropriate portion thereof.

(6) Any other information reasonably required by the department for the enforcement of this chapter,

(c) No terminal or refinery operator shall imprint any statement on a shipping paper relating to petroleum products to be delivered to this state, indicating:

(1) Any supplier's liability for payment of the taxes and fees imposed by this chapter; or

(2) The tax-paid or tax-collected status of any petroleum products;

unless the supplier shall have first directed the terminal or refinery operator to make the statement on the supplier's behalf.

(d) A person operating a terminal or refinery, or operating a bulk plant equipped to provide machine-generated shipping papers, may manually prepare shipping papers as a result of extraordinary, unforeseen circumstances, which temporarily interfere with the operator's ability to issue automated, machine-generated, shipping papers; provided that such operator shall, prior to manually preparing such papers, provide facsimile notice to the department, and the operator's employees shall add to such manually prepared papers, prior to removal of each effected transport load from the facility, a stamp indicating that the document was prepared at the facility. If the interruption has not been cured within twenty-four (24) hours, additional notice(s) to the department shall be made.

(e) A person operating a refinery, terminal or bulk plant may load petroleum products, a portion of which is destined for sale or use in this state and a portion of which is destined for sale or use in another state or states. However, such split loads shall be documented by the operator by issuing shipping papers designating the state of destination for each portion of the product.

(f) A person operating a refinery, terminal or bulk plant shall post a conspicuous notice located near the point of receipt of shipping papers by transport truck operators, which notice shall describe in clear and concise terms the duties of the transport operator and retail dealer under § 67-3-802 through § 67-3-805; provided that the department may by rule or notice establish the language, type, style and format of the notice.

51931726

51931726

004609

00460995

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 1945*

House Bill No. 1817

(g) The commissioner may assess a civil penalty in an amount equal to the taxes and fees on the product (without regard to any exemption or dye) or one thousand dollars (\$1000), whichever is greater, for each violation, against a person who fails to comply with this section.

T.C.A. § 67-3-802. Shipping paper to be carried on board. (a) Each person transporting petroleum products in a transport truck upon the public highways of this state shall:

(1) Carry on board the shipping paper issued by the refinery operator, the terminal operator or the bulk plant operator of the facility where the petroleum product was obtained, whether within or without this state.

(2) Show and permit duplication of the shipping paper by any law enforcement officer or representative of the department, upon request, when transporting, holding or off-loading the product(s) described in the shipping paper.

(3) Deliver product(s) described in the shipping paper to a point or points in the destination state shown on the face of the shipping paper unless the person or his agent does all of the following:

(i) Notifies the department or its nominee, before the earlier of

(A) removal from the state in which the shipment originated, or

(B) the initiation of delivery,

that the person received instructions after the shipping paper was issued to deliver the petroleum product to a different destination state.

(ii) Receives from the commissioner a verification number authorizing the diversion.

(iii) Writes on the shipping paper the change in destination state and the verification number for the diversion.

(4) Provide a copy of the shipping paper to the wholesaler, retailer or other person who controls the facility to which the petroleum product(s) is delivered, and

(5) Meet such other conditions or take such other actions as the department may reasonably require by regulation for the enforcement of this chapter.

(b) The department may in its discretion provide an advance notification procedure for documentation supporting the import of petroleum products where the importer is unable to obtain terminal-issued shipping papers which comply with this section.

51931726

51931726

004609

00460995

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

(c) The commissioner may assess a civil penalty in an amount equal to the taxes and fees on the product (without regard to any exemption or dye) or one thousand dollars (\$1000), whichever is greater, for each violation, against a person who fails to comply with this section.

T.C.A. § 67-3-803. Refusal of delivery. No retail vendor, bulk plant operator, wholesaler or bulk end user shall accept delivery of petroleum products into bulk storage facilities in this state if that delivery is not accompanied by a shipping paper prepared in accordance with this part. The commissioner may assess a civil penalty in an amount equal to the taxes and fees on the product (without regard to any exemption or dye) or one thousand dollars (\$1000), whichever is greater, for each violation, against a person who fails to comply with this section.

T.C.A. § 67-3-804. Diversions. (a) A shipment of petroleum products may be diverted from the destination stated on the original shipping paper where the shipping paper is incorrect or where there is a legitimate business need to divert the shipment. Prior to any diversion or change to the shipping paper; the shipper, the transporter, or an agent of either, shall notify the department or its designee and shall manually add the assigned verification number to the shipping paper. Any claim for refund resulting from a diversion under this section shall be made and acted on under the refund provisions of part 18, chapter 1, and part 4, chapter 3, of Title 67.

(b) The commissioner may assess a civil penalty in an amount equal to the taxes and fees on the product (without regard to any exemption or dye) or one thousand dollars (\$1000), whichever is greater, for each violation, against any person who diverts a shipment or alters a shipping paper other than as provided for in subsection (a).

T.C.A. § 67-3-805. Right to rely. The supplier and the terminal operator shall be entitled to rely for all purposes of this chapter on the representation by the transporter, the shipper or the shipper's agent, as to the shipper's intended state of destination and tax exempt use. The shipper, the importer, the transporter, the shipper's agent and any purchaser, but not the supplier or terminal operator, shall be jointly and severally liable for any taxes and fees otherwise due to the state as a result of an unlawful diversion of the petroleum products from the represented destination state. A terminal operator shall be entitled to rely on the representation of a licensed supplier or bonded importer with respect to the supplier's obligation to collect taxes and fees and the related shipping paper representation as shown on the shipping paper as provided by § 67-3-801.

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51931726

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00460995

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

T.C.A. § 67-3-806. Petroleum products and vehicles declared contraband - confiscation - procedure for hearing. (a) Any petroleum product which is owned or possessed by any person in avoidance, evasion or violation of any provision contained in this part; and any vehicle which is used for storage or transportation of the product; are contraband and may be seized by the commissioner. All products and vehicles seized as contraband shall be delivered promptly to the custody of the department and disposed of under § 67-1-1435. Proceeds of the sale shall be paid to the state treasury for the benefit of the general fund.

(b) Any person, claiming any property or any interest in property seized under the provisions of subsection (a), may file with the commissioner at Nashville a claim in writing, requesting a hearing and stating the person's interest in the product or vehicle seized. The hearing shall be held under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. The request shall be made within ten (10) days following the confiscation.

T.C.A. § 67-3-807. Disposition of seized property - bond or possession - exclusive remedy. (a) When the ruling of the commissioner, following a hearing provided for under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, is favorable to the claimant, the commissioner shall deliver to the claimant the petroleum products and other property which were seized.

(b) When the ruling of the commissioner is adverse to the claimant, and the claimant appeals, the commissioner shall deliver to the claimant the petroleum products and other property so seized; provided, that the claimant shall first post a bond, approved by the commissioner, payable to the state in a sum double the value of the property seized. The condition of the bond shall be that the obligors will pay to the department, the full value of the goods, or property seized, unless upon appeal the decision of the commissioner is reversed and the right of the claimant to the property judicially determined. If the claimant does not post a bond satisfactory to the commissioner, the commissioner shall proceed to sell the contraband goods under § 67-1-1435.

(c) If no claim is interposed, the petroleum products or other property shall be forfeited without further proceedings and shall be sold as herein provided.

(d) The procedures provided for in this section and in § 67-3-808 are the sole remedies of any claimant and no court shall have jurisdiction to interfere therewith by replevin, injunction or in any other manner.

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51931726

004609

00460995

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

T.C.A. § 67-3-808. No operation without a license. (a) No person shall engage in any business activity in this state as to which a license is required by part 6 of this chapter unless the person shall have first obtained the license. No person shall export petroleum products from a terminal in this state unless that person has obtained an exporter's license, a bonded importer's license or a supplier's license, or has paid the applicable Tennessee petroleum products taxes and fees.

(b) Any carrier delivering petroleum products to any person required by this chapter to have a license to import or sell at wholesale, and known by the carrier not to have a license to import or sell fuel at wholesale, shall immediately notify the department by facsimile of the delivery. A carrier who fails to comply with this subsection is jointly and severally liable to the state for the taxes and fees on the product delivered.

(c) An end user who exports fuel in a vehicle fuel supply tank incident to interstate transportation shall be exempt from this section.

(d) The commissioner may assess a civil penalty in an amount equal to the taxes and fees on the product handled (without regard to any exemption or dye) or one thousand dollars (\$1000) per day, whichever is greater, against a person who fails to comply with subsection (a).

T.C.A. § 67-3-809. Unlawful sale and use of dyed fuel . (a) No person shall sell or deliver dyed diesel fuel or diesel fuel contaminated with dye when such person knows or has reason to know that the fuel will be used in a motor vehicle on the public highways.

(b) No person shall introduce dyed diesel fuel or diesel fuel contaminated with dye into the supply tank of any motor vehicle licensed for highway use.

(c) No person shall use dyed diesel fuel or diesel fuel contaminated with dye in a licensed motor vehicle or in a motor vehicle actually used on the public highways.

(d) The prohibitions contained in this section do not pertain to:

(1) persons operating motor vehicles that have received fuel into their fuel tanks outside of this state in a jurisdiction that permits introduction of dyed diesel fuel of that color and type into the fuel supply tank of highway vehicles, and

(2) uses of dyed fuel on the highway which are lawful under the Internal Revenue Code and regulations, including state and local government vehicles, and buses, unless otherwise prohibited by this chapter.

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004609

00460995

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 1945*

House Bill No. 1817

(e) The commissioner may assess a civil penalty of one thousand dollars (\$1000) or ten dollars (\$10) per gallon of dyed fuel involved, whichever is greater, against a person who violates this section. The capacity of the tank determines the amount of dyed fuel involved, unless otherwise shown by the violator. Provided further, for subsequent violations, that the penalty shall be multiplied by the total number of separate violations by that person.

T.C.A. § 67-3-810. No dyed fuel at retail station. No dyed fuel shall be stored or sold at any retail station. The commissioner may assess a civil penalty in an amount equal to the taxes and fees on the product handled (without regard to any exemption or dye) or one thousand dollars (\$1000), whichever is greater, against a person who violates this section.

T.C.A. § 67-3-811. Notice required with respect to dyed diesel fuel. (a) A notice stating -- "DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE" -- shall be provided by the terminal operator to any person that receives dyed diesel fuel at a terminal rack, and provided by any vendor of dyed diesel fuel to its buyer if the diesel fuel is located outside the bulk transfer/terminal system.

(b) The form of notice required under subsection (a) shall be provided at the time of the removal or sale and shall appear on all shipping papers, bills of lading, and invoices accompanying the sale or removal of the dyed diesel fuel.

(c) The commissioner may assess a civil penalty of one hundred dollars (\$100) for each violation, against a person who fails to comply with this section.

T.C.A. § 67-3-812. Dyed fuel pump display. (a) A vendor delivering dyed diesel fuel to consumers through pumps shall be required to prominently display on such pumps the language ---- "Dyed Diesel Fuel - Nontaxable Use Only - Penalty for Taxable Use - Off Highway, Not Legal for Motor Vehicle Use" --- - as presently required by the United States Internal Revenue Service or Environmental Protection Agency. Such display shall remain a requirement until the general assembly, by statute, changes such requirements, notwithstanding either of such federal agencies altering or removing such requirement from its regulations.

(b) The commissioner may assess a civil penalty of one hundred dollars (\$100) for each month in violation, or portion thereof, against a person who fails to comply with this section.

T.C.A. § 67-3-813. Quality assurance. (a) No person shall sell or purchase any product for use in the fuel supply tank of a motor vehicle for general highway use that does not meet standards as

51931726

51931726

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00460995

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

published in the annual American Society for Testing and Materials book of standards and its supplements, unless amended or modified by the department.

(b) All persons in possession of any product in violation of this section shall have the duty to dispose of it in the manner provided by federal and state law.

(c) The commissioner may assess a civil penalty of ten dollars (\$10) per gallon, against a person who fails to comply with this section.

T.C.A. § 67-3-814. Prohibition on tampering with meters at retail outlets. (a) A person operating petroleum products dispensing equipment accessible by the general public shall provide metering devices for each dispenser and shall maintain records sufficient to enable the department to determine the volumes dispensed with reasonable accuracy.

(b) No person shall exchange, replace, roll back or otherwise tamper with any such metering equipment without following procedures provided by the department for legitimate maintenance, repairs and replacement purposes.

(c) The department shall have the authority to seal any dispenser meter or totalizer.

(d) The commissioner may assess a civil penalty in an amount equal to the taxes and fees on the storage capacity of the facility (without regard to any exemption or dye) or one thousand dollars (\$1000), whichever is greater, against a person who fails to comply with this section.

T.C.A. § 67-3-815. Records retention. (a) All persons subject to this part shall retain records, including but not limited to shipping papers, of all petroleum products transactions for a period of three years after December 31 of the year in which the transaction occurred.

(b) Persons operating terminals, refineries and bulk plants shall retain these records on site for a period of ninety (90) days following the month of the transaction.

(c) Retail stations shall retain these records on site for a period of thirty (30) days following the month of the transaction.

(d) The commissioner may revoke the license(s) of and assess a civil penalty in the amount of five thousand dollars (\$5000) against a person who fails to comply with this section.

T.C.A. § 67-3-816. Inspections. (a) In addition to any general authority to investigate for violations of this chapter, the commissioner and the commissioner's designees are hereby authorized to inspect any motor vehicle to ascertain whether the fuel supply tank contains dyed diesel fuel or diesel fuel contaminated with dye.

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FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 1945*

House Bill No. 1817

(b) The commissioner may assess a civil penalty of one thousand dollars (\$1000) against a person who refuses to allow the inspection. Provided further, for subsequent refusals, that the penalty shall be multiplied by the total number of separate refusals by that person.

T.C.A. § 67-3-817. Invoices. (a) Each supplier, importer and wholesaler selling petroleum products in this state shall, at or near the time of each sale, make out and deliver to the purchaser, a pre-numbered invoice in which the vendor shall enter the name of the vendor, the full name and complete delivery address of the purchaser, the date of delivery, the type of fuel, a notation for dye added, the total dollar amount of the purchase, the amount of state tax, and the number of gallons of product sold.

(b) The commissioner may assess a civil penalty of five hundred (\$500) dollars for each month in violation, or portion thereof, against a person who fails to execute and deliver invoice documents as provided in this section.

T.C.A. § 67-3-818. Calibration of storage tanks. (a) The commissioner may require the person operating a terminal or refinery to furnish, upon request, two (2) sets of calibration tables on any tank within the bulk terminal/transfer system located in this state, into which petroleum products first come to rest after import. The tanks shall be strapped and the calibrations shall be made by a person qualified and licensed to do this work and recognized for this purpose by the United States government.

(b) The commissioner may request from the operator calibration tables on any tank that the commissioner may wish to be calibrated. The operator shall furnish the two (2) sets of calibration tables within sixty (60) days from the date of the request, calibrated as required in subsection (a).

(c) It is unlawful for any person to fail to comply with the request of the commissioner to furnish any calibration table as provided for in either subsection (a) or (b) within a period of sixty (60) days from the date of the request.

(d) The commissioner may assess a civil penalty of five hundred dollars (\$500) against any person who violates this section.

T.C.A. § 67-3-819. Criminal violations. A person who violates any provision of this chapter with the intent to deprive the state of its lawful revenues, or who aids and abets another to do so, is guilty of a class E felony.

PART 9 GENERAL ADMINISTRATIVE PROVISIONS

T.C.A. § 67-3-901. Gasoline Tax - distribution of receipts - expenses of administration - utility relocation loan program. (a) The commissioner shall apportion for distribution all of the taxes collected

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FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 1945*

House Bill No. 1817

pursuant to § 67-3-201, and shall inform the department of finance and administration as to the proper amounts of all distributions to be made therefrom.

(b) Revenues from the tax imposed by § 67-3-201 shall be apportioned for distribution in the following order:

(1) Amounts required to be paid to the state sinking fund pursuant to title 9, chapter 9;

(2) Of the amounts designated hereafter for distribution to the counties, cities and highway fund, one percent (1%) shall be subtracted from the amount designated for cities, one percent (1%) shall be subtracted from the amount designated for counties, and two percent (2%) shall be subtracted from the amount designated for the highway fund for distribution to the general fund for expenses of administration prior to the distribution of the funds to the cities, counties or highway fund;

(3) Twenty-eight and six-tenths percent (28.6%) of total taxes collected to the various counties of the state on the basis set out in § 54-4-103;

(4) Fourteen and three-tenths percent (14.3%) of total taxes collected to the various municipalities, as defined by § 54-4-201, on the basis set out at § 54-4-203; and

(5) Any funds remaining after the distributions set out above to the highway fund. There shall be accumulated and set apart within the fund such amounts as required, not to exceed one million five hundred thousand dollars (\$1,500,000) during each of four (4) succeeding fiscal years, which shall be available for carrying out the utility relocation loan program, established in subsection (j).

(c) Revenues from the increases in taxes imposed by Acts 1985, ch. 419, and Acts 1985, ch. 454, effective 1985, shall be distributed in accordance with the following formula:

(1) Two cents (2¢) of such revenues shall be apportioned pursuant to subsection (b); and

(2) One cent (1¢) of such revenues shall be apportioned as follows:

(A) Of such amount designated hereafter for distribution to the counties and cities, one percent (1%) shall be subtracted from the amount designated for cities and one percent (1%) shall be subtracted from the amount designated for counties for distribution to the general fund for expenses of administration prior to the distribution of the funds to the cities or counties;

(B) Sixty-six and two-thirds percent (66 2/3%) of such revenues collected to the various counties of the state on the basis set out in § 54-4-103; and

(C) Thirty-three and one-third percent (33 1/3%) of such revenues collected to the various municipalities, as defined by § 54-4-201, on the basis set out in § 54-4-203.

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AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

(d) Notwithstanding any provision of the law to the contrary, a county shall be eligible to receive those revenues to be distributed directly to it from the tax increases imposed by Acts 1985, ch. 419, and Acts 1985, ch. 454, effective 1985, only if it appropriates and allocates funds for road purposes from local revenue sources in an amount not less than the average of the five (5) preceding fiscal years, except bond issues and federal revenue sharing proceeds shall be excluded from the five (5) year average computation. If a county fails, after July 1, 1985, to so appropriate and allocate at least such average amount for road purposes, then the amount of revenues which would otherwise be allocable to such county from the revenues derived by § 67-3-603 and § 67-3-604 as those statutes existed on July 1, 1985, shall be reduced by the amount of the decrease below such average. The amount of such funds not allocated to such county because of such decrease shall be allocated to the state highway fund, to be used by the department of transportation for the improvement of state highways in such county, and such state funds shall be in addition to the funds otherwise allocated for improvements in such county in that fiscal year.

(e) Funds apportioned to counties under the provisions of Acts 1985, ch. 419 shall be used for resurfacing and upgrading county roads, including the paving of gravel roads. Any expenditure for equipment shall be approved by a two-thirds (2/3) vote of the county legislative body, prior to purchase.

(f) Revenues from the increases in taxes imposed by § 67-3-603 and § 67-3-604 as those statutes existed on June 1, 1986, shall be distributed and allocated as follows:

(1) Revenue from the first three cents (3¢) per gallon of such increases in taxes shall be apportioned as follows:

(A) Amounts required to be paid to the state sinking fund pursuant to title 9, chapter 9;

(B) Three million dollars (\$3,000,000) per annum, beginning on July 1, 1986, to the highway fund for the use and benefit of certain mass transit projects; and

(C) All other amounts to the highway fund to be used for accelerating the resurfacing of the state system of highways in order to establish a twelve-year cycle of resurfacing with implementation beginning in 1986 and being completed by 1998, and for new construction in the primary system of highways over the period from 1986 to 1999; and

(2) Revenue from one cent (1¢) of such increases in taxes shall be apportioned as follows:

(A) Of such amount designated hereafter for distribution to counties and cities, one percent (1%) shall be subtracted from the amount designated for counties, and one percent (1%) shall be subtracted

51931726

51931726

004609

00460995

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

from the amount designated for cities for distribution to the general fund for expenses of administration prior to the distribution of the funds to the counties or cities;

(B) Sixty-six and two-thirds percent (66 2/3%) of such revenues collected to the various counties of the state on the basis set out in § 54-4-103; and

(C) Thirty-three and one-third percent (33 1/3%) of such revenues collected to the various municipalities, as defined by § 54-4-201, on the basis set out in § 54-4-203.

(g) Prior to the apportionment set out in subsections (b), (c), (d) and (f), there shall be apportioned for distribution to the wildlife resources fund, for use exclusively in the administration of the Boating Safety Act of 1965, compiled in title 69, chapter 10, part 2, an amount equal to one thousand seventy-four ten thousandths of one percent (.1074%) of the taxes collected under § 67-3-201, exclusive of tax revenues resulting from the three cents (3¢) per gallon gasoline tax increase imposed by Acts 1989, ch. 46.

(h) All revenues and investment income derived from the increase in the gasoline tax rate imposed by Acts 1989, ch. 46 shall be placed in the state highway fund, and shall not be subject to the apportionment and distribution provisions of subsection (b).

(i) Revenues from the one cent (1¢) increase in taxes (from nineteen cents (19¢) to twenty cents (20¢)) imposed by § 67-3-603 and § 67-3-604, as those statutes existed under prior Tennessee law immediately after Acts 1989, ch. 241, became effective, shall be apportioned as provided in subdivision (f)(2).

(j) (1) From the amounts accumulated and set apart pursuant to the provisions of subdivision (b)(5), there is hereby established a "utility relocation loan program" for loan financing of all costs incurred by local governments and not for profit business organizations providing utility services to customers related to relocating, moving or re-installing their utility facilities, without any additions thereto, when located within rights-of-way of highways on the system of state highways and required because of highway construction projects administered by the department of transportation.

(2) A loan may be authorized only under the following conditions:

(A) The applicant has provided the utility management review board with sufficient information to enable the board to determine whether the applicant is obligated to relocate, move or re-install its utility facilities, the estimated cost thereof and inability to otherwise obtain a loan for such costs; or, in the

51931726

51931726

004609

00460995

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

judgment of the board, the applicant would be unable to obtain financing for other government purposes as a result of obtaining a loan for a relocation project;

(B) The utility management review board has recommended to the state funding board that the loan be made and advises the board of the estimated amount of the loan; and

(C) The state funding board has concurred in the recommendation of the utility management review board.

(3) When the foregoing conditions in this subsection have been met, the state funding board is empowered to make and administer loans from funds available, subject to the following limitations:

(A) No loan shall have a duration in excess of ten (10) years;

(B) No loan having a duration of five (5) years or less shall bear interest. Loans having a duration in excess of five (5) years shall not bear interest during the first five (5) years, but shall bear interest at a rate equivalent to rate of return received by the state treasurer on the state cash pool; and

(C) The principal of loans shall be repayable in equal monthly installments, together with interest when applicable.

(4) (A) The utility management review board shall require, if necessary, that user rates be established which are sufficient to repay principal and any interest on the loan.

(B) The state funding board may establish such other terms, not inconsistent with the foregoing, as it determines to be appropriate.

(5) Nothing contained within this subsection shall be construed to prohibit authorization of a utility relocation loan for relocation, moving or reinstallation costs incurred during the interim between July 1, 1989, and the date upon which the first loan is actually authorized under the utility relocation loan program. In such cases, the proceeds, or a portion thereof, may be used by the borrower to retire a debt incurred by the borrower to finance such relocation, moving or reinstallation.

T.C.A. § 67-3-902. Investment of idle funds from 1986 gasoline tax increases. All funds from the increase in taxes imposed by Acts 1986, ch. 931 and allocated to the state highway fund shall be placed in a separate account and, to the extent not required for the projects provided for in Acts 1986, ch. 931, shall be invested pursuant to § 9-4-603, with the investment income credited to the highway fund.

T.C.A. § 67-3-903. Specific highway projects benefited by 1986 gasoline tax increases.

(a) During the 1986-1987 fiscal year, the funds generated under the provisions of Acts 1986, ch. 931 shall be used only for the projects specified in the March 25, 1986, Proposed Fiscal Year 1986-1987

51931726

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00460995

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 1945*

House Bill No. 1817

Transportation Improvement Plan and Additional Construction Projects, and those additional projects listed in Acts 1986, ch. 931. No projects shall be deleted from this plan without the approval of the speaker of the house of representatives and the speaker of the senate. Additional projects shall include the following:

(1) There shall be included in the Cannon County SR-1 (US-70S) SR-64 to Woodbury bridge construction project described therein the widening of SR-1 to four (4) lanes from Woodbury to the Rutherford County line, and in the Smith County SR-25 Carthage Bypass right-of-way project described therein necessary bridge design;

(2) There shall be included a highway from Columbia, in Maury County to the intersection of Law Road and Interstate 40 at Exit 140 in Henderson County, this highway to provide access through the counties of Maury, Lewis, Perry, Decatur, and Henderson, among others, and to the cities of Hohenwald, Linden, Parsons, and Lexington, among others; and

(3) There shall be included the reconstruction of Old Hickory Boulevard (State Highway 251) to four (4) lanes from U.S. Highway 70S to U.S. Highway 70N near Interstate Route 40.

(b) (1) (A) The projects listed in the memorandum dated April 1, 1986, from Commissioner Dale Kelley to Senator Henry, Senator Darnell, Representative Bragg and Representative Robinson shall constitute and comprise the projects to be completed no later than the end of the 1998-1999 fiscal year, and the provisions of such memorandum are hereby incorporated herein by reference. No project shall be deleted or changed from such memorandum without the approval of the speaker of the house of representatives and the speaker of the senate.

(B) The reference in such memorandum on page 2 of 2, headed BICENTENNIAL PARKWAY SPECIFIC DESCRIPTIONS, shall include after the language "Interstate 155 Extension" the following: on a route to be determined by the commissioner of transportation after public hearings and feasibility studies through either Dyer, Gibson and Madison counties or through Dyer, Crockett and Madison counties.

(2) Additional projects shall include:

(A) The reconstruction of Highway 61 to four (4) lanes from Clinton to Oak Ridge;

(B) Preplanning of the reconstruction of Highway 46 from Highway 149 to Dickson;

(C) Improvement of the Austin Peay Highway in Shelby County north from I-240 North at an estimated cost of four million three hundred thousand dollars (\$4,300,000); and

51931726

51931726

004609

00460995

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 1945*

House Bill No. 1817

(D) The widening to four (4) lanes of Highway 12 from Ashland City to Clarksville Highway in Davidson County.

(c) Nothing herein shall be interpreted or construed to place any roadway which is the subject of Acts 1986, ch. 931 under the "Scenic Highway Act of 1971" or the "Tennessee Parkway System Act" as set forth in title 54, chapter 17, parts 1 and 2.

(d) In addition to the projects listed in the "Accelerated Primary Highway Plan" in the memorandum dated April 1, 1986, from Commissioner Dale Kelley to Senator Henry, Senator Darnell, Representative Bragg and Representative Robinson, there is added a project in Memphis described as: The reconstruction of U.S. Route 61, South Third Street, from Shelby Drive to Mitchell Road to provide six (6) traffic lanes.

(e) The commissioner of transportation may consider a northern route to complement the Bicentennial Parkway project known as Interstate 840. Counties which may be considered by the commissioner for the northern route are Wilson, Montgomery, Robertson, Cheatham, Dickson and Sumner. During the 1993-1994 fiscal year, location and environmental studies shall be undertaken. The commissioner may consider funding sources from all revenues allocated to the department of transportation for highway purposes.

T.C.A. § 67-3-904. Petroleum products tax increases - participation of disadvantaged or women business enterprises in construction. (a) (1) The department of transportation shall make good faith efforts to obtain participation of either disadvantaged business enterprises or women business enterprises, as such enterprises may be defined by the commissioner of transportation through regulations which the commissioner of transportation is hereby authorized to promulgate, in the amount approximating ten percent (10%) of the revenues which are distributed to the state highway fund from the petroleum products tax increases authorized by Acts 1989, ch. 46, and which are let to contract.

(2) With respect to projects funded wholly or in part with state funds, the department of transportation shall make good faith efforts to obtain participation of either disadvantaged business enterprises or women business enterprises, as such enterprises may be defined by the commissioner of transportation through regulations which the commissioner of transportation is hereby authorized to promulgate, in the amount approximating seven percent (7%) of the revenues which are distributed to the state highway fund from the petroleum products tax increases, effective 1986, and which are let to contract.

51931726

51931726

004609

00460995

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

(b) As a condition of disbursement of the funds raised by Acts 1989, ch. 241, any local government receiving such funds shall agree to make good faith efforts to obtain participation of either disadvantaged business enterprises or women business enterprises, as such enterprises may be defined by the commissioner of transportation through regulations which the commissioner of transportation is hereby authorized to promulgate, in the amount approximating ten percent (10%) of the revenues which are distributed to such governments from the petroleum products tax increases authorized by Acts 1989, ch. 241, and which are let to contract.

T.C.A. § 67-3-905. Diesel tax, compressed natural gas, and prepaid user diesel tax - allocation of proceeds. (a) The tax imposed pursuant to § 67-3-202, § 67-3-1151, and § 67-3-1309, shall be allocated and distributed in the following order and manner:

- (1) One and sixty-two hundredths percent (1.62%) to the general fund;
 - (2) Twenty-four and seventy-five hundredths percent (24.75%) to the counties of the state to become a part of the county highway fund in the following manner:
 - (A) Fifty percent (50%) equally among all counties;
 - (B) Twenty-five percent (25%) on the basis of population; and
 - (C) Twenty-five percent (25%) on the basis of area;
 - (3) Twelve and thirty-eight hundredths percent (12.38%) to municipalities, as defined in § 54-4-201, on the basis set out as § 54-4-203; and
 - (4) Sixty-one and twenty-five hundredths percent (61.25%) to the highway fund.
- (b) Revenues from the increases in taxes imposed by Acts 1986, ch. 931, shall be distributed and allocated as follows:

- (1) Amounts required to be paid to the state sinking fund pursuant to title 9, chapter 9; and
- (2) All other amounts to the highway fund to be used for accelerating the resurfacing of the state system of highways in order to establish a twelve-year cycle of resurfacing within the period between 1986 and 1998; and for new construction in the primary system of highways over the period from 1986 to 1999.

(c) All revenues and investment income derived from the increase in the motor vehicle fuel use tax imposed by Acts 1989, ch. 46, shall be placed in the state highway fund, and shall not be subject to the apportionment and distribution provisions of subsections (a) and (b).

51931726

51931726

004609

00460995

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

(d) Revenue from the one cent (1¢) increase (from sixteen cents (16¢) to seventeen cents (17¢)) in the tax imposed by Acts 1989, ch. 241, effective April 1, 1990, and all investment income derived therefrom, shall be placed in the state highway fund and shall not be subject to the apportionment and distribution provisions of subsections (a) and (b).

T.C.A. § 67-3-906. Special privilege tax and export tax - disposition of tax proceeds. (a) Ninety-eight percent (98%) of the proceeds from the collection of the taxes imposed by §§ 67-3-203 and 67-3-205 shall be allocated to and deposited in the highway fund and two percent (2%) thereof in the general fund for administrative purposes.

(b) From the actual proceeds of the taxes, there is established a local government fund in the actual amount of twelve million seventeen thousand dollars (\$12,017,000) which shall be distributed to the counties and cities monthly.

(1) The local government fund shall be used solely for county roads and city streets.

(2) From the local government fund, a monthly sum of three hundred eighty-one thousand five hundred eighty-three dollars (\$381,583) shall be distributed to county highway departments on the basis of county population, and the monthly sum of six hundred nineteen thousand eight hundred thirty-three dollars (\$619,833) shall be distributed to cities on the basis of city population.

(3) Before distributing moneys to cities from the proceeds of the taxes imposed by §§ 67-3-203 and 67-3-205 as provided herein, the commissioner of finance and administration shall deduct from the cities' share of the local government fund the sum of ten thousand dollars (\$10,000) per month which shall be allocated to the University of Tennessee for the Center for Government Training for the purpose of supporting in-service training for local government officials and employees.

T.C.A. § 67-3-907. Environmental assurance fee - disposition of fee proceeds. (a) The environmental assurance fee levied and collected pursuant to § 68-215-110 and § 67-3-204 shall be collected by the department as provided in this chapter, except that the fees collected shall be for the petroleum underground storage tank board as provided in title 68, chapter 215.

(b) Any conflicts in the statutes as to the collection of the environmental assurance fee levied in title 68, chapter 215, shall be resolved in favor of this chapter, petroleum products taxes and fees, so as to avoid inconsistency and duplication in the administration of the provisions of the various statutes which govern the environmental assurance fee.

51931726

51931726

004609

- 59 -

00460995

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

T.C.A. § 67-3-908. Liquified gas - distribution of tax. (a) The tax imposed by Acts 1983, ch. 203, shall be distributed as follows:

(1) One and fifty-eight hundredths percent (1.58%) to the general fund;
(2) Twenty-eight and twenty-eight hundredths percent (28.28%) to the counties to become a part of the county highway fund in the following manner:

(A) Fifty percent (50%) equally among all counties;
(B) Twenty-five percent (25%) on the basis of population; and
(C) Twenty-five percent (25%) on the basis of area;
(3) Fourteen and fourteen hundredths percent (14.14%) to municipalities, as defined in § 54-4-201, on the basis set out in § 54-4-203; and
(4) Fifty-six percent (56%) to the highway fund.

(b) Revenues from the increases in taxes imposed by Acts 1986, ch. 931, shall be distributed and allocated as follows:

(1) Revenue from the first three cents (3¢) per gallon of such increases in taxes shall be apportioned as follows:

(A) Amounts required to be paid to the state sinking fund pursuant to title 9, chapter 9; and
(B) All other amounts to the highway fund to be used for accelerating the resurfacing of the state system of highways in order to establish a cycle of resurfacing during the period from 1986 to 1998; and for new construction in the primary system of highways; and

(2) Revenue from one cent (1¢) of such increases in taxes shall be apportioned as follows:

(A) Of such amount designated hereafter for distribution to counties and cities, one percent (1%) shall be subtracted from the amount designated for counties and one percent (1%) shall be subtracted from the amount designated for cities for distribution to the general fund for expenses of administration prior to the distribution of the funds to the counties or cities;

(B) Sixty-six and two-thirds percent (66 2/3%) of such revenues collected to the various counties of the state on the basis set out in § 54-4-103; and

(C) Thirty-three and one-third percent (33 1/3%) of such revenues collected to the various municipalities, as defined by § 54-4-201, on the basis set out in § 54-4-203.

51931726

51931726

004609

- 60 -

00460995

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

(c) All revenues and investment income derived from the increase in the liquified gas tax imposed by Acts 1989, ch. 46, shall be placed in the state highway fund, and shall not be subject to the apportionment and distribution provisions of subsections (a) and (b).

T.C.A. § 67-3-909. Commissioner's duty - receipts and disbursements. The commissioner shall collect all taxes and fees accruing under this chapter and pay them to the state treasurer.

T.C.A. § 67-3-910. Federal reservations - application of petroleum products and alternative fuels taxes. (a) Under the terms of the cession of jurisdiction to the United States by this state, the right is reserved to this state to tax sales of and privileges of dealing in petroleum products and alternative fuels used in the operation of motor vehicles within the limits of the Great Smoky Mountains National Park which is within the boundaries of this state.

(b) The right is reserved to this state to tax sales of and privileges of dealing in petroleum products and alternative fuels in operation of motor vehicles within limits of any reservation or preserve within the boundaries of this state.

T.C.A. § 67-3-911. Lists - furnishing by the commissioner. A current list of licensees, with applicable federal employer identification numbers, shall be provided to all licensees, as is deemed necessary by the commissioner. Disclosure of this information by the commissioner shall not constitute a violation of any confidentiality requirement imposed by §§ 67-1-1701 et seq.

PART 10 GASOLINE TAX FOR LOCAL TRANSPORTATION FUNDING

T.C.A. § 67-3-1001. Definitions. (a) As used in this part, "commissioner," "department," "gallon," "gasoline," and "person" have the same meanings as ascribed to them in § 67-3-103, unless the context in which used dictates otherwise.

(b) As used in this part, unless the context otherwise requires:

(1) "Net proceeds" means the total amount of the tax authorized by this part that is attributable to original local sales within a specified local governmental jurisdiction less any fees to which the department is entitled as set forth in § 67-3-1010;

(2) "Public transportation services" means services provided by public transportation systems;

(3) "Public transportation system" means a system of public transportation for carriage of persons for hire, operating on a not for profit basis in this state, the organizational, operating, or capital expenditures of which are financed in whole or in part through grants, subsidies, and/or other funds

51931726

51931726

004609

00460995

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 1945*

House Bill No. 1817

provided by the United States, the state of Tennessee, and/or one (1) or more municipalities and/or counties incorporated or existing under the laws of Tennessee, in which the system operates.

T.C.A. § 67-3-1002. Tax additional. The tax levied shall be in addition to all other taxes, whether levied in the form of excise, license, or privilege taxes, and shall be in addition to all other fees and taxes levied.

T.C.A. § 67-3-1003. Applicability to governmental agencies. The provisions of this part shall apply only to counties, metropolitan governments, or incorporated municipalities which currently operate, or in the future may undertake to operate, either by itself or through a transit authority or in cooperation with another county, metropolitan government, or incorporated municipality, a public transportation system as defined in § 67-3-1001.

T.C.A. § 67-3-1004. Tax authorized. (a) Gasoline shall be taxed under this part only if the county, municipality, or metropolitan government in which it is purchased has adopted the tax, regardless of where the gasoline purchased for such vehicle is used.

(b) Other provisions of the law to the contrary notwithstanding, any county, metropolitan government or incorporated municipality which operates, or in which is operated by a municipality in a county whose population is not less than forty-one thousand (41,000) nor more than forty-one thousand five hundred (41,500) according to the 1980 federal census or any subsequent federal census, or in the future may undertake to operate, either by itself or through a transit authority or in cooperation with another county, metropolitan government, or incorporated municipality, a public transportation system may levy, as provided in §§ 67-3-1007 and 67-3-1008, a special privilege tax on the sale of gasoline by every importer, every supplier and every wholesaler for the privilege of engaging in and carrying on such business within its jurisdiction.

(c) The tax shall be in an amount equal to one cent (1¢) on the sale of each gallon of gasoline within that jurisdiction, and the liability for the tax shall attach upon sale at the terminal rack or if product is received in this state outside the bulk transfer/terminal system, then the tax shall attach at first sale. The tax shall be collected as provided in § 67-3-1010. It is the intent of the general assembly that the additional amount of tax resulting from the provisions of this part shall not exceed one cent (1¢) per gallon.

51931726

51931726

004609

00460995

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

(d) Once any jurisdiction imposes the tax, the jurisdiction may repeal its imposition by the affirmative vote of a majority of the voting membership of that jurisdiction's legislative body or by a vote of the people in the manner outlined in §§ 67-3-1007 and 67-3-1008.

(e) All gasoline distributed by any importer, supplier or wholesaler to any of its retail stations in a taxing jurisdiction shall be deemed to have been sold.

(f) It is the intent of the general assembly that a gallon of gasoline shall be taxed only once pursuant to the provisions of this part and the amount of that tax shall not exceed one cent (1¢) per gallon.

T.C.A. § 67-3-1005. County levy precludes municipal levy. The levy of the tax authorized by this part by a county shall preclude any city or town within the county from levying the tax. If only a portion of a city or town is within such a county, the city or town may not levy the tax authorized by this part within that portion.

T.C.A. § 67-3-1006. Exemptions. (a) The applicable exemptions from taxation set out in part 4 of this chapter shall likewise be applicable to the tax herein provided.

(b) The tax imposed by this part shall not apply to gasoline or diesel fuel sold for agricultural purposes and exempt from taxation under the provisions of part 4 of this chapter.

T.C.A. § 67-3-1007. Referendum. (a) Any ordinance or resolution of county, municipality or metropolitan government levying the tax under authority of this part shall not become operative until approved in an election herein provided in the county, municipality, or metropolitan government as the case may be. The county election commission shall hold an election thereon, providing options to vote "FOR" or "AGAINST" the ordinance or resolution, at the next regularly scheduled election within the jurisdiction imposing the tax which occurs at least sixty (60) days after the receipt of a certified copy of such ordinance or resolution, and a majority vote of those voting in the election shall determine whether the ordinance or resolution is to be operative. If the majority vote is for the ordinance or resolution, it shall be deemed to be operative on the date that the county election commission makes its official canvass of the election returns. No tax shall be collected under any such ordinance or resolution until the first day of a month occurring at least thirty (30) days after the operative date.

(b) If a county legislative body adopts a resolution to levy the tax when the tax has previously become operative within a municipality located in the county, the election to determine whether the

51931726

51931726

004609

00460995

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 1945*

House Bill No. 1817

county tax is to be operative shall be open only to the voters residing outside of the municipality in which the tax had previously become operative.

T.C.A. § 67-3-1008. Petition for tax. (a) A resolution or ordinance levying the tax authorized may be initiated by petition of the voters in the following manner:

(1) The petition shall be addressed to the county legislative body or the governing body of the municipality or metropolitan government requesting that a resolution or ordinance be adopted levying the tax;

(2) The petition shall be signed by at least a number of registered voters in the taxing jurisdiction equal to ten percent (10%) of the total number of registered voters in the taxing jurisdiction on the date the petition is filed. A petition requesting a resolution of the county legislative body may not be signed by a registered voter in a municipality where a tax herein authorized is operative and the registered voters therein shall not be considered in arriving at the required percentage; and

(3) A petition requesting a resolution shall be filed with the county clerk, a petition requesting an ordinance with the chief clerical officer of the municipality and a photographic copy of the petition shall be filed at the same time with the county election commission who shall be the judges of the sufficiency of the petition.

(b) If, within thirty (30) days from the filing of a petition, a resolution or ordinance is not adopted as requested and a certified copy filed with the county election commission, the petition shall constitute a resolution or ordinance, and the county election commission shall hold an election thereon as in § 67-3-1007(a).

T.C.A. § 67-3-1009. Repeal of tax. Any ordinance or resolution of a county, metropolitan government, or incorporated municipality or town adopted in accordance with this part may be repealed in the same manner provided herein for its adoption.

T.C.A. § 67-3-1010. Collection of tax. (a) (1) The department shall collect such tax in the same manner as state tax is collected. The tax shall be computed on the number of gallons sold to a retailer and shall attach upon delivery to the retailer within the taxing jurisdiction. The tax shall be due and payable to, and reports shall be filed with, the department on or before the twentieth (20th) of the month following the month of sale.

(2) The city, county or metropolitan government or municipality levying the tax shall furnish a certified copy of the adopting resolution or ordinance to the department within ten (10) days after its

51931726

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004609

00460995

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

adoption, and shall notify the department within ten (10) days of the approval of the resolution or ordinance in a referendum as provided for in this part.

(3) The department shall remit the proceeds of the tax to the county, metropolitan government, or municipality, city or town levying the tax, less a reasonable amount or percentage as determined by the department to cover the expenses of administration and collection, the amount not to exceed two percent (2%) of the taxes collected.

(4) The commissioner is authorized to promulgate rules and regulations and prescribe necessary forms for the collection of the tax.

(5) All proceeds collected from within a municipality which already qualifies as a mass transit system under § 67-3-1001(b)(3) in a county whose population is not less than forty-one thousand (41,000) nor more than forty-one thousand five hundred (41,500) according to the 1980 federal census or any subsequent federal census shall be remitted to the municipality by the department after the department deducts its administrative and collection costs provided pursuant to this section.

(b) In the event of delinquency, tax due by reason of this chapter may be collected by the commissioner under chapter 1, part 14 of this title.

T.C.A. § 67-3-1011. Accounting for funds. Any funds raised under the provisions of this part shall be accounted for separately and a report made annually to the governing body of the jurisdiction imposing the tax on its expenditures.

T.C.A. § 67-3-1012. Apportionment and use of tax. (a) The tax authorized herein shall be apportioned among and used by local governments in the following manner:

(1) If the tax authorized herein shall be levied by a metropolitan government, or incorporated municipality or town, the net proceeds of such tax shall be apportioned to the metropolitan government or incorporated municipality or town levying such tax and shall be used for support of public transportation services provided wholly or partly within the governmental unit;

(2) If the tax authorized herein shall be levied by a county, the net proceeds shall be apportioned to the county levying such tax and shall be used for support of public transportation services provided wholly or partly within the governmental unit;

(3) If the tax authorized herein shall be levied by a county in which is operated a public transportation system by a municipality in a county whose population is not less than forty-one thousand (41,000) nor more than forty-one thousand five hundred (41,500) according to the 1980 federal census or

51931726

51931726

004609

00460995

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 1945*

House Bill No. 1817

any subsequent federal census, except as provided in § 67-3-1010 (a)(5) the net proceeds shall be apportioned to such county levying such tax and shall be used for support of public transportation services provided wholly or partly within such governmental unit, which shall include necessary road and street repair in support of such public transportation services, in accordance with the provisions of § 67-3-1010 (a)(5).

(b) Unless the county and any and all cities or towns within it provide otherwise by contract, any county which levies a tax under this part shall apportion it in a manner such that any city or town within the county which provides public transportation services shall receive as a minimum, a percentage of the proceeds equal to its percentage of the county population based on the latest official census by the United States census bureau. The city or town shall apply such proceeds to the support of public transportation services provided wholly or partly within its boundaries. When any county levies a tax under this part and apportions it to cities or towns in accordance with this section, the county shall be entitled to representation on any governing body created to oversee the provision of public transportation services within any of those cities or towns. The means of designation shall be determined by resolution of the county legislative body authorizing the tax.

(c) Any funds raised through the provisions of this part shall be used solely to maintain present levels of service and to extend the areas presently served with public transportation. It shall not be utilized to increase present levels of compensation of personnel.

PART 11 ALTERNATIVE FUELS

T.C.A. § 67-3-1101. Alternative fuels - Definitions. As used in this part, unless the context otherwise requires:

- (1) "Commercial purposes" means use in a trade or business;
- (2) "Dealer" means a person who is the operator of a retail station or other retail outlet and who delivers liquified gas into the fuel supply tanks of motor vehicles. "Dealer" also means a person who delivers liquified gas into a dispenser capable of fueling motor vehicles;
- (3) "Liquified gas" means all combustible gases that exist in the gaseous state at sixty degrees Fahrenheit (60° F) and at a pressure of fourteen and seven-tenths pounds (14.7 lbs.) per square inch absolute, but does not include gasoline or diesel fuel or compressed natural gas;
- (4) "Motor vehicle" means a self-propelled vehicle licensed for highway use;

51931726

51931726

004609

00460995

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 1945*

House Bill No. 1817

(5) "Passenger car" means a motor vehicle designed for carrying ten (10) or fewer passengers and used for the transportation of persons;

(6) "Taxable sales or deliveries" means the delivery in Tennessee of liquified gas or compressed natural gas into the fuel supply tank of a motor vehicle which does not have affixed a current user permit; and

(7) "User" means a person who operates a motor vehicle in this state which is propelled by liquified gas or compressed natural gas.

T.C.A. § 67-3-1102. Liquified gas - Rate of tax. (a) A use tax is imposed on liquified gas used for the propulsion of motor vehicles on the public highways of this state at the rate of fourteen cents (14¢) a gallon.

(b) Governmental agencies are exempt from the liquified gas tax imposed by subsection (a).

T.C.A. § 67-3-1103. Liquified gas - Time of payment of tax. (a) A person using a liquified gas propelled motor vehicle, including a motor vehicle equipped to use liquified gas interchangeably with another motor fuel, that is required to be licensed in Tennessee for use on the public highways, shall prepay the tax imposed in § 67-3-1102 to the commissioner on an annual basis.

(b) An out-of-state user shall pay the liquified gas tax on delivery of the liquified gas into the fuel supply tank of a motor vehicle.

T.C.A. § 67-3-1104. Liquified gas - Dealer permits. (a) A dealer who sells taxable liquified gas, or a user whose motor vehicle is licensed in this state, shall file an application with the commissioner for the kind and class of permit required by this part, which is not assignable.

(b) An application for a permit must be filed on a form provided by the commissioner showing the kind and class of permit desired, the odometer reading of the motor vehicle for which application is made, and other information required by the commissioner.

(c) A dealer permit shall be posted in a conspicuous place or kept available for inspection at the principal place of business of the permittee. A dealer permittee shall reproduce the permit and display it in a conspicuous place at each additional place of business from which liquified gas is sold, delivered or used in motor vehicles. A user permit shall be affixed in the upper right corner of the front windshield (passenger side) of the vehicle.

(d) A dealer permit authorizes a dealer to collect and remit taxes on liquified gas delivered into the fuel supply tanks of motor vehicles which do not have affixed a user permit.

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51931726

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00460995

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 1945*

House Bill No. 1817

T.C.A. § 67-3-1105. Liquified gas - Bond. (a) (1) Application for a dealer permit shall be accompanied by a bond, payable to the state of Tennessee, as provided in part 6.

T.C.A. § 67-3-1106. Liquified gas - Tax on vehicles. (a) (1) A user of liquified gas for the propulsion of a motor vehicle on the public highways of Tennessee shall pay in advance annually on each motor vehicle licensed in Tennessee by the user a tax based on the classification of the vehicle according to the following schedule:

Passenger Car	\$70
Class 1	84
2	84
3	100
4	100
5	114

(2) The tax shall be paid on a July 1 through June 30 basis and shall be prorated from the date of acquisition or the installation of the liquified gas carburetor system.

(b) As used in this part:

(1) "Class 1" means vehicles, other than passenger cars, of declared maximum gross weight, including vehicle and load, of not more than nine thousand pounds (9,000 lbs.);

(2) "Class 2" means vehicles of declared maximum gross weight, including vehicle and load, of not more than sixteen thousand pounds (16,000 lbs.);

(3) "Class 3" means vehicles of declared maximum gross weight, including vehicle and load, of not more than twenty thousand pounds (20,000 lbs.);

(4) "Class 4" means vehicles of declared maximum gross weight, including vehicle and load, of not more than twenty-six thousand pounds (26,000 lbs.); and

(5) "Class 5" means vehicles of declared maximum gross weight, including vehicle and load, of greater than twenty-six thousand pounds (26,000 lbs.).

T.C.A. § 67-3-1107. Liquified gas - Duration of permits. (a) A dealer permit is permanent and valid as long as the permittee furnishes timely reports and remits the taxes when due, or until surrendered by the holder or canceled by the commissioner.

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51931726

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AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

(b) A user permit shall be issued annually and is valid from the date of issuance through June 30 of each year, unless a motor vehicle for which the tax is prepaid is sold or no longer used on the public highways. Application must be made each year for a current user permit.

T.C.A. § 67-3-1108. Liquified gas - Liability of dealer for sale to unauthorized users. (a) A dealer who makes a sale or delivery of liquified gas into a fuel supply tank of a motor vehicle which does not have a user permit affixed is liable to the state for the tax imposed and shall report and pay the tax in the manner required by this part.

(b) A dealer may make a sale or delivery of liquified gas into a fuel supply tank of a motor vehicle which does not have a user permit affixed if the dealer is shown a copy of the application for a user permit for the motor vehicle made within thirty (30) days of the sale or delivery. However, if the user permit is not granted, the dealer shall be liable to the state for the tax imposed.

T.C.A. § 67-3-1109. Liquified gas - Records and invoices. (a) A dealer shall keep for four (4) years, open to inspection at all times by the department and the attorney general and reporter, a complete record of all liquified gas received or purchased, sold, or delivered.

(b) A user dealer operating a vehicle used for commercial purposes shall keep for four (4) years, open to inspection at all times by the commissioner and the attorney general and reporter, a record of:

(1) The total miles traveled in all states by all the user's motor vehicles traveling into or from Tennessee and the total quantity of liquified gas used in the motor vehicles; and

(2) The total miles traveled in Tennessee and the total quantity of liquified gas delivered into the fuel supply tanks of motor vehicles.

(c) Each sale or delivery of liquified gas into the fuel supply tanks of a motor vehicle shall be evidenced by an invoice. The pre-numbered invoice must be printed and contain:

(1) The preprinted or stamped name and address of the dealer;

(2) The date;

(3) The number of gallons delivered;

(4) The name and address of the person taking delivery;

(5) The number of the user permit or if the vehicle does not have a permit, the state of registration and the license number; and

(6) The amount of tax paid or accounted for stated separately from the selling price.

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51931726

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FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 1945*

House Bill No. 1817

(d) A user required to report ending odometer readings may deduct the miles traveled outside Tennessee from the total miles traveled.

T.C.A. § 67-3-1110. Liquified gas - Reports - Payment of tax - Computation of tax. (a) A dealer, on or before the twenty-fifth day of the month following the end of each calendar quarter, shall file a report and remit the tax due. A dealer who has made no taxable deliveries during the reporting period shall file a report.

(b) A user operating a vehicle used for commercial purposes shall be required to submit a report on or before July 25 of each year, for the previous permitted year and shall remit the tax due. The report must state the ending odometer reading, the number of miles traveled in Tennessee, the number of miles traveled outside Tennessee, and other information required by the commissioner. In the absence of an ending odometer reading, the previous year's mileage shall be presumed to be forty thousand (40,000) miles. A report shall be filed even if no tax is due. Failure to file this report shall result in the tax being assessed based upon the presumption that the vehicle traveled forty thousand (40,000) miles.

(c) (1) In computing the tax to be remitted, a user required to report ending odometer readings shall divide the total miles traveled in Tennessee by the mileage allowance for the applicable class. The resulting number of gallons used shall be multiplied by the tax rate imposed, to obtain the tax due. The cost of the permit shall be deducted from the tax due to obtain the tax to be remitted with the annual report.

(2) The number of gallons used shall be computed using the following mileage allowances:

Passenger cars 19 miles per gallon

Class 1 14 miles per gallon

Class 2 14 miles per gallon

Class 3 8 miles per gallon

Class 4 8 miles per gallon

Class 5 5 miles per gallon

T.C.A. § 67-3-1111. Liquified gas - transfer, destruction, or modification of motor vehicle - refunds of tax.

(a) When a motor vehicle bearing a permit is sold or transferred, the seller and purchaser shall notify the commissioner within ten (10) days of the sale or transfer and a new permit shall be issued in the new owner's name.

51931726

51931726

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FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 1945*

House Bill No. 1817

(b) When a motor vehicle bearing a permit is destroyed or the liquified gas carburetor system removed, the user shall be refunded that portion of the prepaid tax that corresponds to the number of complete months remaining in the permitted year, beginning with the month following the date on which the vehicle or carburetor was no longer utilized. No refund shall be made if the use of the vehicle ceased in June. The user shall submit to the commissioner an affidavit identifying the vehicle, the permit number, the circumstances which entitle a refund, and other information required by the commissioner. On receipt of the affidavit and when satisfied as to the circumstances, the commissioner shall make refund.

(c) A user is entitled to a refund of the amount of the Tennessee liquified gas tax paid on each gallon of liquified gas used outside this state. On verification by the commissioner that the report was complete and timely filed, the refund shall be paid if ten dollars (\$10.00) or more is due the user. No refund less than ten dollars (\$10.00) shall be paid. No refund shall be granted if the report is not timely filed.

T.C.A. § 67-3-1112. Liquified gas - penalties for violations. (a) If any permittee fails to make the reports or pay the taxes at the time required, the commissioner may, upon compliance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, suspend the permit until such time as either the reports are submitted or the taxes are paid, or both of them are done.

(b) If any owner of a liquified gas propelled motor vehicle that is required to be licensed in Tennessee for use on the public highways fails to prepay the tax as required in 67-3-1106, the commissioner shall proceed to assess and collect the amount due to be paid, together with a penalty of one hundred dollars (\$100).

T.C.A. § 67-3-1113. Compressed natural gas - rate of tax. (a) A use tax is imposed on compressed natural gas used for the propulsion of motor vehicles on the public highways of this state at the rate of thirteen cents (13¢) a gallon. For the purpose of determining the tax on compressed natural gas, a gallon equivalent factor of five and sixty-six one-hundredths (5.66) pounds per gallon shall be used.

(b) Governmental agencies are exempt from the compressed natural gas tax imposed by subsection (a).

T.C.A. § 67-3-1114. Compressed natural gas - User's permits. (a) A user of compressed natural gas shall apply to and obtain from the commissioner a compressed natural gas user's permit.

51931726

51931726

004609

00460995

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

(b) A compressed natural gas user's permit shall be issued by the commissioner to a person who uses compressed natural gas in a licensed motor vehicle in this state. To procure a permit, each person shall file with the commissioner an application and meet the bonding provisions of part 6 of this chapter.

(c) A holder of a compressed natural gas user's permit shall provide notice in writing to the commissioner of intent to terminate the permit. Such permit shall be terminated effective on the date the notice.

T.C.A. § 67-3-1115. Compressed natural gas - reports. (a) For the purpose of determining the amount of tax imposed by 67-3-1113, each permittee shall file with the commissioner, on a form prescribed by the commissioner, a monthly report on or before the twenty-fifth (25th) day of the month following the month of activity, whether or not fuel is used. The report shall be executed under a declaration of penalty of perjury and shall state the total number of gallons of compressed natural gas used by the permittee within the state.

(b) A permittee, who consumes compressed natural gas in motor vehicles for highway use, shall report each vehicle and the fuel used. Odometer readings of motor vehicles at the beginning and the end of the month shall be furnished, together with other information as required by the commissioner. The permittee shall keep odometers on all the motor vehicles in good working order at all times. The permittee need not provide odometer readings if excused by the commissioner for good cause shown.

T.C.A. § 67-3-1116. Compressed natural gas - records. (a) A user shall keep for four (4) years, open to inspection at all times by the department and the attorney general and reporter, a complete record of all compressed natural gas received and used.

T.C.A. § 67-3-1117. Compressed natural gas - penalty for unauthorized highway usage. The commissioner may assess a civil penalty of five hundred dollars (\$500) against a person who uses compressed natural gas in a motor vehicle on the public highways without possessing a valid compressed natural gas user's permit.

T.C.A. § 67-3-1118. Compressed natural gas - sale or transfer of motor vehicle. When a compressed natural gas motor vehicle is sold or transferred, the seller and the purchaser shall notify the commissioner within ten (10) days of the sale or transfer, and the purchaser shall register with the department.

PART 12 HIGHWAY USER FUEL TAX

T.C.A. § 67-3-1201. Definitions. As used in this part, unless the context otherwise requires:

51931726

51931726

004609

00460995

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

(1) "Alternative fuels tax" means the per gallon tax on liquified gas and compressed natural gas imposed by part 11 of this chapter;

(2) "Diesel tax" means the per gallon tax on motor fuel imposed by part 2 of this chapter;

(3) "Freight motor vehicle" has the same meaning as "qualified motor vehicle" defined in subdivision (8);

(4) "Gasoline tax" means the per gallon tax imposed on gasoline by part 2 of this chapter;

(5) "Highway user fuel tax" means the gasoline tax, diesel tax, and/or alternative fuels tax as defined in this part at the rates set forth and in the amount determined under § 67-3-1204;

(6) "Licensee" means any person who holds an uncanceled license authorized by the international fuel tax agreement and issued by a state of the United States, the District of Columbia, or a province or territory of Canada;

(7) "Permittee" means any person who is the holder of a permit authorized to be issued under § 67-3-1202(a) and (b), and who is subject to the tax imposed by §§ 67-3-1203 and 67-3-1204;

(8) "Qualified motor vehicle" means a motor vehicle used, designed or maintained for transportation of persons or property and:

(A) Having two (2) axles and a gross vehicle weight or registered gross vehicle weight exceeding twenty-six thousand pounds (26,000 lbs.); or

(B) Having three (3) or more axles regardless of weight; or

(C) Is used in combination, when the weight of such combination exceeds twenty-six thousand pounds (26,000 lbs.) gross vehicle weight; and

(D) "Qualified motor vehicle" does not include recreational vehicles;

(9) "Recreational Vehicle" means vehicles such as motor homes, pickup trucks with attached campers, and buses when used exclusively for personal pleasure by an individual. In order to qualify as a recreational vehicle, the vehicle shall not be used in connection with any business endeavor;

(10) "Revoke" or "revocation" means withdrawal of a permit or license and the privileges related thereto by the jurisdiction issuing the permit or license; and

(11) "Suspend" or "suspension" means temporary removal of privileges granted to the permittee or licensee by the jurisdiction issuing the permit or license.

T.C.A. § 67-3-1202. Permits and licenses. (a) Prior to operation in this state or entry into this state of any qualified motor vehicle engaged in the transportation of property in interstate commerce in or

51931726

51931726

004609

00460995

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

through this state, the owners or operators of such vehicle shall make application to the department of revenue for a permit or license for each such qualified motor vehicle to be operated upon the highways of this state. The application shall be upon forms furnished by the department.

(b) The permit or license shall be issued by the commissioner when it is determined that lawful requirements have been met by the applicant.

(c) A permit or license issued by the department for operation of a qualified motor vehicle shall be in the form as may be prescribed by the commissioner.

(d) If any qualified motor vehicle enters this state and operates upon the highways of the state without a permit or license described in subsection (c) and identification as may be prescribed by the commissioner, the owner and operator thereof shall be liable for and may be required to pay all of the freight motor vehicle registration fees, licenses and taxes assessable by law.

(e) Notwithstanding the provisions of subsection (d), a lessor who is regularly engaged in the business of leasing or renting motor vehicles without drivers for compensation to permittees or licensees or other lessees may be deemed to be the permittee or licensee, and such lessor may be issued a license if an application has been properly filed and approved by the base jurisdiction.

(f) In the case of a carrier using independent contractors under long-term leases (that is, a lease longer than thirty (30) days), the lessor and lessee will be given the option of designating which party will report and pay fuel use tax. If the lessee (carrier) assumes responsibility for reporting and paying motor fuel taxes and alternative fuel taxes, the base jurisdiction shall be the base jurisdiction of the lessee, regardless of the jurisdiction in which the qualified motor vehicle is registered for vehicle registration purposes by the lessor.

(g) For motor vehicle leases of thirty (30) days or less, the fuels use/miles or kilometers permit or license holder for the motor vehicle under lease will be liable.

T.C.A. § 67-3-1203. Bond. (a) In the event the commissioner of revenue determines that a bond is needed to protect state revenue, the application for a permit or license shall be accompanied by a bond, the form thereof which shall be prescribed by the department. The bond shall be at least twice the estimated average quarterly, or annually, if the user is filing annual, tax liability of the user.

(b) The required bond shall be conditioned upon quarterly, or annual, in the case of annual filers, payment on or before the due date, of the highway user fuel tax imposed per each gallon of gasoline, motor fuel or alternative fuel, used in the operation of a qualified motor vehicle on the highways of

51931726

51931726

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AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

Tennessee. Instead of a personal or corporate surety on such bond, the commissioner may allow the bond to be secured by deposit of collateral, having a face value equal to the bond amount, in the form of a certificate of deposit, or equivalent thereto, as accepted and authorized by the banking laws of this state. Such collateral may be deposited with any authorized state depository designated by the commissioner.

T.C.A. § 67-3-1204. Amount of tax - formula. The amount of tax payable to the state is determined by dividing the total number of miles traveled in the state during the quarter or annual reporting period, as the case may be, by the average number of miles of motor vehicle travel per gallon of gasoline or diesel fuel, or the per gallon equivalents of alternative fuels and multiplying the result by the rates of the tax per gallon as imposed in parts 2 and 11.

T.C.A. § 67-3-1205. Waiver of provisions - temporary and restricted use fuel permits. (a) The commissioner may waive the provisions of this part for a freight motor vehicle carrying products of the farm during the seasonal harvest seasons to such an extent as is practical in order to encourage the bringing of farm products to Tennessee plants and mills. The commissioner is vested with authority to issue rules for the enforcement of this exception.

(b) (1) The requirements of this part may be waived with respect to a freight motor vehicle operated over the highways of this state on an occasional or infrequent basis upon the owner or operator obtaining a temporary fuel permit for the vehicle from the department.

(2) The temporary fuel permit may be issued for a period of time not to exceed seven (7) consecutive days and shall be valid only for the particular vehicle for which it has been issued.

(3) The department may furnish temporary fuel permits in bulk for issuance by the department of safety or by private wire services and like companies pursuant to contract.

(4) The fee for any temporary fuel permit shall be thirty dollars (\$30.00).

(c) (1) The requirements of this part shall be waived with respect to a freight motor vehicle operated over the highways of this state on an occasional or infrequent basis for the purpose of transporting horses, cattle, or other livestock, for exhibition or breeding within this state; provided, that the owner or operator obtains a restricted use fuel permit for the vehicle from the department of safety.

(2) Such restricted use fuel permit shall be issued for a period of time of not less than one (1) month nor more than one (1) year, at the discretion of the owner or operator, and shall be valid only for

51931726

51931726

004609

00460995

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

the particular vehicle for which it has been issued and only when such vehicle is transporting horses, cattle, or other livestock, for exhibition or breeding within this state.

(3) The fee for such restricted use fuel permit shall be calculated at the rate of ten dollars (\$10.00) for each month (and fraction thereof) during which such permit will remain valid.

(4) The commissioner of safety is vested with authority to promulgate rules for the implementation and enforcement of this exception.

T.C.A. § 67-3-1206. Annual and quarterly reports - Payments - Penalty. (a) Licensees whose operations, other than in the base jurisdiction, total five thousand (5,000) miles in all international fuel tax agreement member jurisdictions may request to report on an annual basis. This will be based upon filing history. Should any licensee wish to report annually, the licensee must petition the base jurisdiction to do so. If the base jurisdiction agrees to permit annual reporting and no other jurisdiction objects, and the commissioner of revenue of this state does not object, annual reporting shall be allowed.

(b) Each permittee or licensee shall file a quarterly report, or annual report, if applicable, on forms prescribed by the department, showing the total number of qualified motor vehicle miles of operation in this state and any other information as may be required by the commissioner. The report shall reflect activity during the preceding calendar quarter or annual reporting period, as the case may be, and shall be due on the last day of the month following the close of the calendar quarter or annual reporting period for which the report is submitted.

(c) The full amount of the gasoline tax, motor fuel tax, or alternative fuel tax, imposed by this state shall be paid at the same time as the report is transmitted on or before each quarterly or annual due date set forth in subsection (b). The commissioner of revenue has the authority to require a permittee or licensee to make such payments in cash or by money order, certified check, or cashier's check in cases where any two (2) checks issued by such permittee or licensee within one (1) calendar year have been dishonored.

(d) Failure by a permittee or licensee to file a proper quarterly or annual report, as the case may be, or to pay the proper tax may be considered by the commissioner as a basis to require such permittee or licensee to secure a bond pursuant to § 67-3-1203, or if such bond has already been secured, such failure shall cause any such bond to be forfeited.

T.C.A. § 67-3-1207. Tax credit for purchases in state - refund of taxes. (a) Each permittee or licensee is entitled to a credit on the highway user fuel tax equivalent to the tax paid on all gasoline,

51931726

51931726

004609

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AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

motor fuel, or alternative fuel, purchased by such permittee or licensee within this state and used in its operations outside Tennessee. Evidence of payment of the tax shall be furnished by the permittee or licensee claiming the credit and such evidence shall be in the form required by, or satisfactory to, the commissioner of revenue.

(b) When the amount of the credit to which any permittee or licensee is entitled for any quarter, or any annual reporting period, as the case may be, exceeds the amount of the highway user fuel tax for which the permittee or licensee is liable for the same quarter, or annual reporting period, the excess may be allowed as a credit on the tax for which the permittee or licensee would otherwise be liable for another quarter or annual reporting period. Approved credit carryovers may be applied against a permittee's or licensee's highway user fuel tax liability only if claimed on a report filed for any one (1) of the eight (8) quarters succeeding the quarter in which the excess credit accrued, or in the case of annual filers, on a report filed for any one (1) of the two (2) years succeeding the year in which the excess credit accrued.

(c) Upon application within two (2) years from the end of any quarterly reporting period, or annual reporting period, as the case may be, duly verified and supported by evidence as may be satisfactory to the commissioner, the excess referred to in subsection (b) may be refunded. The refund may be made if it appears that the permittee or licensee has paid to another state, under a lawful requirement of that state, a tax similar in effect to the tax provided on the use or consumption in such state of gasoline, motor fuel, or alternative fuel, purchased in Tennessee. The refund shall not be made at a rate other than the Tennessee rate in effect at the time of purchase.

T.C.A. § 67-3-1208. Violations - penalty - interest - refunds. (a) It is unlawful for any owner or operator of a qualified motor vehicle to permit it to be operated over any highway of this state without complying with the provisions of this part. A violation of this subsection is a Class C misdemeanor.

(b) A penalty of fifty dollars (\$50.00) or ten percent (10%) of the delinquent taxes, whichever is greater, shall be assessed for failure to file a report, or for filing a late report, or for underpayment of taxes.

(c) Interest at the rate of one percent (1%) per month, calculated from the date tax was due for each month or fraction thereof, until paid, shall be assessed on all delinquent or deficient taxes.

(d) Refunds determined to be properly due shall be made within ninety (90) days after receipt of a request for payment, with proper documentation, from a permittee or licensee. If the refund is not made

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AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

within this time period, interest shall accrue at the rate of one percent (1%) per month calculated for each month or major fraction thereof, in excess of the time in which the refund should have been made.

T.C.A. § 67-3-1209. Reciprocal agreements. (a) The commissioner of revenue is hereby authorized to enter into reciprocal agreements on behalf of the state of Tennessee with the duly authorized representatives of other jurisdictions providing for the fuel use tax registration of vehicles, establishing periodic fuel use reporting and fuel use tax payment requirements from owners of such vehicles, and disbursement of funds collected due to other jurisdictions based on mileage traveled and fuel used in those jurisdictions.

(b) Notwithstanding any statute contrary to the provisions of any reciprocal agreement entered into by the commissioner as authorized by this section, the provisions of the reciprocal agreement shall govern and apply to all matters relating to administration and enforcement of the highway user fuel tax. In the event the language of any reciprocal agreement entered into by the commissioner, as authorized by this section, is later amended so that it conflicts with or is contrary to any statute, the commissioner shall consider the amended language of the reciprocal agreement controlling and shall administer and enforce the highway user fuel tax in accordance with the amended language of the reciprocal agreement.

(c) The commissioner may likewise enter into reciprocal agreements or arrangements with the duly authorized representatives of other jurisdictions to allow persons with properly registered vehicles of not less than twenty-six thousand pounds (26,000 lbs.) gross weight, or having three (3) axles which are periodically engaged in the transportation of property in or through this state to operate such vehicles in other jurisdictions without the purchase of temporary fuel permits in such jurisdictions when used in transporting properly registered antique vehicles or antique farm equipment to and from shows or exhibitions of such vehicles or equipment. Such agreement or arrangement does not apply to any for-hire carrier.

(d) The commissioner may adopt and promulgate such rules and regulations as may be necessary to effectuate and administer this section.

T.C.A. § 67-3-1210. Delinquency of payment of taxes or fees - suspension of permit or license.

(a) In the event a permittee or licensee becomes delinquent in the payment of any taxes or fees, or fails to file any report required by § 67-3-1206 by the due date, the commissioner of revenue may suspend the permit or license held by the permittee or licensee.

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AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

(b) Should any of the delinquencies referenced in subsection (a) continue for a period of thirty (30) days, the commissioner may revoke the permit or license held by the permittee or licensee.

(c) Any permittee or licensee whose permit or license has been suspended or revoked under the provisions of subsection (a) or (b) may, upon payment of the required taxes or fees, plus any penalty and interest, and filing the required reports, petition the commissioner for reinstatement of the permit or license that has been suspended or revoked. Upon receipt of a reinstatement fee of one hundred dollars (\$100), the commissioner shall reinstate the permit or license.

(d) The commissioner may require the reinstatement fee of one hundred dollars (\$100) for any permit or license to be made in cash or by money order, certified check or cashier's check in any case where any two (2) checks issued by the permittee or licensee within one (1) calendar year have been dishonored.

PART 13 SPECIAL PROVISIONS APPLICABLE TO LIMITED USERS AND PREPAID USERS

T.C.A. § 67-3-1301. Purpose of this part. The purpose of this part is to adopt special provisions applicable to limited users and prepaid users of diesel fuel. Anything to the contrary notwithstanding, limited users and prepaid users of diesel fuel are subject to all other provisions of this chapter to the extent otherwise applicable except as provided by this part.

T.C.A. § 67-3-1302. Definitions. As used in this part, unless the context otherwise requires:

(1) "Authorization" means an uncanceled diesel tax prepaid user authorization issued by the commissioner;

(2) "J Class" refers to combined farm and limited private trucks, as defined by the department;

(3) "Limited user" means a person who consumes diesel fuel within this state for both licensed motor vehicles and other purposes, and who is the qualified holder of an uncanceled limited user permit issued by the commissioner;

(4) "Prepaid user" means a person who is the qualified holder of an uncanceled diesel tax prepaid user authorization issued by the commissioner.

T.C.A. § 67-3-1303. Limited user permits - generally. (a) Except as otherwise provided in this chapter, no purchases of undyed diesel fuel are permitted tax-free and all purchasers of diesel fuel will be required to purchase either undyed, tax-paid diesel fuel, or dyed, tax-free diesel fuel.

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FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 1945*

House Bill No. 1817

(b) An uncanceled limited user permit entitles the permittee to purchase from a licensed wholesaler or supplier undyed diesel fuel tax-free at the time of purchase, subject to the permittee's obligation to report and pay tax as provided in § 67-3-1304.

(c) All uncanceled permits under the prior law which are held by limited users on December 31, 1997, where the permittee made taxable use of no more than three thousand six hundred (3600) gallons of diesel fuel during the calendar year 1997, shall remain effective on January 1, 1998, and until otherwise revoked, canceled or terminated as further provided by this section.

(d) All other permits held by limited users under the prior law are revoked effective January 1, 1998.

(e) A holder of a permit, which has been made effective on January 1, 1998, pursuant to subsection (c) above, may continue to purchase undyed diesel fuel free of tax during each successive calendar year and until such holder's purchases of undyed taxable diesel fuel exceeds three thousand six hundred (3600) gallons during a particular year.

(f) A holder whose purchases of undyed taxable diesel fuel exceed three thousand six hundred (3600) gallons during a particular year shall notify the commissioner of such fact, and the commissioner shall revoke the permit.

(g) Upon revocation of a holder's permit, the commissioner shall notify each of holder's suppliers of the revocation.

(h) Purchasers of tax-paid undyed diesel fuel who have used such fuel in a tax-exempt manner may obtain refunds pursuant to the provisions of part 4.

(i) No new permits shall be issued by the commissioner on or after January 1, 1998.

T.C.A. § 67-3-1304. Annual returns by limited user - equipment reports. (a) For the purpose of determining the amount of tax imposed by part 2, each limited user shall file with the commissioner, on a form prescribed by the commissioner, an annual return which shall include the total number of gallons of dyed and the total number of gallons of undyed fuel used by the limited user within the state during the preceding calendar year. Annual returns and remittances thereon shall be filed not later than March 31 following the close of the preceding calendar year. Returns shall be executed under a declaration of penalty of perjury and shall be filed each year whether or not any dyed or undyed fuel was used in the preceding calendar year.

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AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

(b) A limited user who uses undyed fuel in any diesel-powered highway vehicle shall report each piece of equipment in which it is consumed. Under no circumstances may a limited user use dyed diesel fuel in a diesel-powered highway vehicle. Odometer readings of equipment at both the beginning and the end of the month shall be furnished, together with other information as required by the commissioner. The limited user shall keep the odometers on all highway vehicles in good working order at all times. The limited user need not provide odometer readings if excused by the commissioner for good cause shown.

T.C.A. § 67-3-1305. Cancellation of permit - revocation of permit. (a) A limited user may cancel the permit by giving written notice to the department. The cancellation is effective as of the date of the notice.

(b) The commissioner may suspend or revoke a permit for failure to comply with the provisions of this chapter after at least ten (10) days notice to the permittee and a hearing, should such be requested, pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

T.C.A. § 67-3-1306. Prepaid user authorization - grandfather provisions. (a) All holders of uncanceled prepaid user authorizations valid under prior law on December 31, 1997, are entitled to renew their authorizations for 1998, and for each successive annual authorization period, upon payment of the applicable tax stated in § 67-3-1309, on or before January 1 of the renewal period. An uncanceled prepaid user authorization entitles the holder to purchase from a wholesaler undyed diesel fuel, tax-free at the time of purchase, subject to the holder's obligation to prepay tax pursuant to the provisions of § 67-3-1309.

(b) No new authorizations will be issued by the commissioner. Authorizations issued by the commissioner on or after January 1, 1998, shall only be renewals of previously effective authorizations as provided in subsection (a) and § 67-3-1307.

(c) The following class of persons is eligible to receive an uncanceled authorization from a holder of such authorization by gift or will: husband, wife, son, daughter, lineal ancestor, lineal descendant, brother, sister, stepchild, son-in-law or daughter-in-law of the holder. For purposes of this section, a person who is related to the holder as a result of legal adoption shall be considered to have the same relationship as a natural lineal ancestor, lineal descendant, brother, sister or stepchild. The holder may effectuate the transfer of an uncanceled authorization he holds by the following methods:

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- 81 -

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AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

(1) By noting on holder's annual authorization renewal form, that a gift has been made, including the effective date of the gift, the donee's name, social security number, address, and the relationship of the donee to the holder; or

(2) By provision in a probated will, stating the beneficiary's name, social security number, address, and the relationship of the beneficiary to the decedent.

When a transfer of an uncanceled authorization under this subsection becomes effective, the transferor's previous authorization shall be revoked. No refund will be issued as a result of such transfer.

(d) Upon expiration of the time period specified in subsection (a) above without a renewal of the prior year's authorization and prepayment of the applicable tax, the authorization will lapse and is not subject to renewal.

T.C.A. § 67-3-1307. Prepaid user authorization - renewals. The commissioner shall renew a prepaid user authorization when an application in proper form has been accepted for filing, and the other conditions and requirements of this part have been met. An authorization shall be valid from the date of its issuance through December 31 of the calendar year or until canceled as provided in this part. A prepaid user must make application for an authorization renewal each calendar year. The sale of a motor vehicle voids the authorization with respect to the vehicle.

T.C.A. § 67-3-1308. Prepaid user authorization - cancellation and refund. A prepaid user may cancel the authorization by giving written notice to the department. The cancellation is effective as of the date of the notice. The department shall refund such portion of the prepaid tax attributable to the remaining portion of the calendar year.

T.C.A. § 67-3-1309. Diesel tax prepaid user authorization for certain farmers. (a) A farmer whose use of diesel fuel is predominately for agricultural purposes and non-highway use, and who owns or operates one (1) or more passenger cars or trucks in the weight class shown in this section, may apply for a diesel tax prepaid user authorization. Such authorization requires the holder to prepay an annual tax on the diesel fuel purchased from a wholesaler for the holder's own consumption. Prepayment of tax is at the rate prescribed for each motor vehicle based on the class of registered gross weight. The tax paid pursuant to a prepaid user authorization shall be paid on a calendar year basis. A farmer whose purchases of diesel fuel are predominately for non-agricultural purposes or highway use does not qualify for a diesel tax prepaid user authorization.

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AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1945*

House Bill No. 1817

	(LBS.)	
Passenger Car		\$56.00
J Class 1	9,000	\$67.50
J Class 2	16,000	\$67.50
J Class 3	20,000	\$79.00
J Class 4	26,000	\$84.00
J Class 5	32,000	\$90.00
J Class 6	38,000	\$95.50
J Class 7	44,000	\$104.00
J Class 8	56,000	\$135.00
J Class 9	66,000	\$140.50
J Class 10	74,000	\$149.00
J Class 11	80,000	\$159.00

(b) Whenever the holder of a diesel tax prepaid user authorization ceases to farm within this state, the authorization is void, and the prepaid user shall notify the commissioner in writing within fifteen (15) days after discontinuance. The commissioner shall refund such portion of the prepaid tax attributable to the remaining portion of the calendar year.

SECTION 2. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

SECTION 3. It is the intent of the general assembly that should any court of last resort determine the tax levied by this Act to be invalid, then all of Title 67, chapter 3, as it existed immediately before the effective date of this Act, shall be revived in its entirety, immediately upon the effective date of the court's order, so as not to effect a decrease by legislative action of the fees or taxes required by law to be paid at the time of enactment of this Act.

SECTION 4. This Act shall take effect on January 1, 1998, the public welfare requiring it.

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